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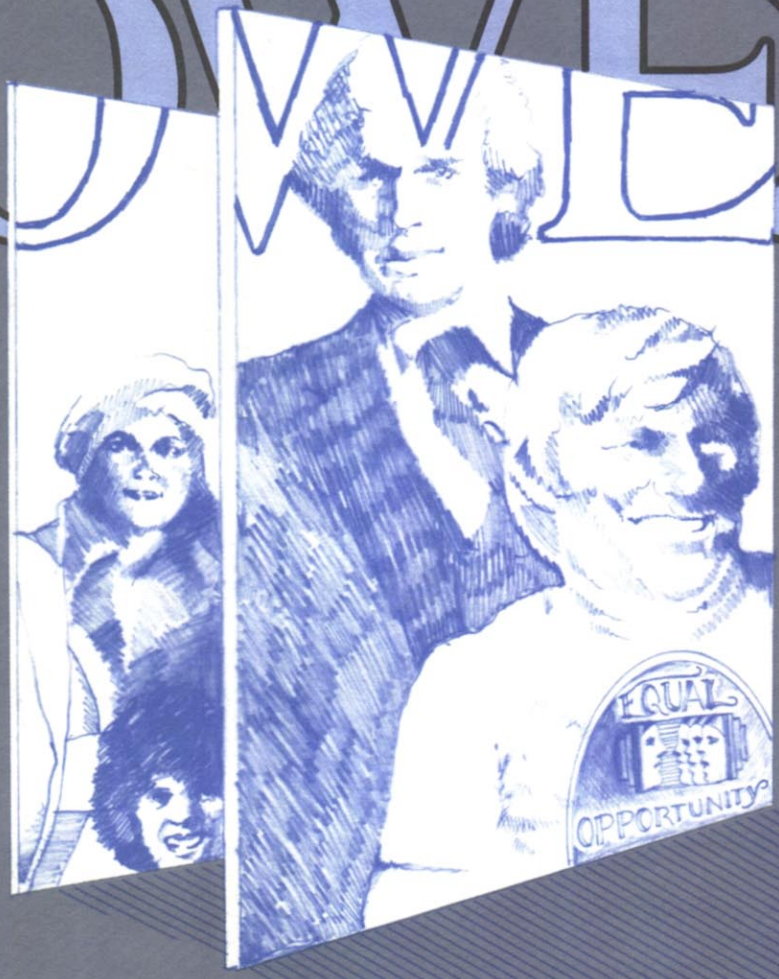
California Journal

THE MONTHLY REPORT ON STATE GOVERNMENT AND POLITICS

GAY POWER



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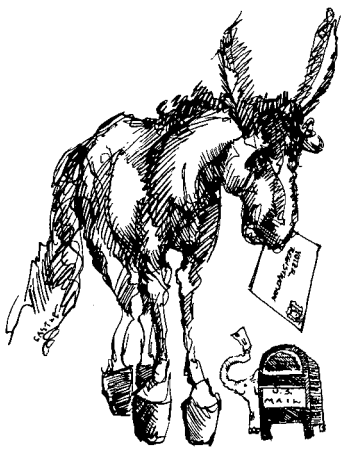
A PERSONAL PERSPECTIVE...

By Ed Salzman

Postcards and the party-poopers

Politicians of both major parties have long held that there are great masses of potential Democratic voters who can be marched to the polls each election day once an easy way is found to get them registered to vote. Acting on that assumption, Democrats have been trying for years to simplify the registration system, and Republicans have resisted these attempts by screaming about the likelihood of fraud.

Now, California is about to enter the era of postcard registration, and there are those who claim that this will guarantee large Democratic majorities in the Legislature and the state's congressional delegation. (The argument is not so strong for statewide office because party designation is not as important a factor in these contests.) This is predicated on the theory that there are numerous Californians who probably would vote — and vote Democratic — if they were registered, but who don't consider voting important enough to warrant searching out a deputy registrar. Presumably, these half-apathetic citizens will register when postcard forms are available at their local supermarkets and then will go to the polls on election day.



But there are other reasons why Californians don't register: total apathy, an unwillingness to risk jury duty, or frequent movement from area to area. The postcard system will do little to get these folks to register, let alone vote.

Postcard signup surely will swell the registration rolls. Undoubtedly, the bulk of the new prospective voters will register in the Democratic Party. Does this automatically convert into election victories for the Democrats? It is one thing to get registrants and quite another to get these reluctant voters to participate in the process. Are the Democrats well enough organized to drag these citizens to the polls? It may well turn out that the postcard system will uncover quite a few Republicans as well. And isn't it a rule of political law in California that the GOP is more efficient than the Democrats in getting out its voters? Isn't it just possible that this efficiency factor (and the fact that No. 2 must try harder than ever) will negate the advantage of the postcard system for the Democrats? Or even make it backfire?

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Meet the state's new auditor general: Assemblyman Mike Cullen. Technically, Cullen is the chairman of the Joint Legislative Audit Committee. But he has moved into the auditor's office and taken charge.

Why did Jesse Unruh encourage speculation that he might run for the Assembly — and the speakership — following the death of Sacramento Democrat Ed Z'berg? Answer: Unruh has always believed that a politician should employ every opportunity to "make yourself interesting".

The 1975 state telephone directory finally made an appearance following a five-month delay caused by Brown administration procrastination in making appointments.

Bob Gnaizda, strongman deputy secretary of health and welfare, was described in New York's *Village Voice* as "the Lithuanian Swan". He wrote back that "every living Gnaizda (14 in all) is Georgian." And, he claims, it is impossible to accuse him of being a swan because he is executive director of the International Giraffe Appreciation Society.

A proposal for development of a public-utility system for health-care providers on a pilot basis is being developed for the Department of Health by Terry McGann, a consultant formerly on the staff of Senator George Moscone.

The House Democratic caucus, led by Congressman Phil Burton, may have shown the way for the Assembly by eliminating its rule binding members on bills by two-thirds vote of the caucus.

Candidate Corner: Democrat Dennis Mangers, who came close to pulling off a surprise victory over Republican Assemblyman Bob Burke of Orange County last year, has announced that he will try again. Cecil Green, mayor pro tempore of Norwalk, is already running hard for an open state Senate seat. Freshman Democrat Carmen Perino of Stockton will face primary opposition from Lela Nelson, a leader in the women's political movement.

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California *NEWSBRIEFS*

Unemployment rises, but state welcomes 'end' of the recession California's unemployment rate reached 10.2 percent in August, up from July's rate of 10.1 percent, the Employment Development Department reported last month. This exceeded the average rate in the 50 states, 8.7 percent, the department noted, but was less than some other populous states, such as Massachusetts, Michigan, New Jersey and New York.

Meanwhile, the Department of Finance said that the recession that had caused the unemployment increase seems to have reached bottom. The department reported an upturn in construction activity since March as the major sign that the corner had been turned.

PUC begins a major overhaul of rates charged for power The California Public Utilities Commission granted Pacific Gas & Electric Company a general rate increase of $213.4 million annually last month but also adopted a new policy aimed at holding down the rate charged for basic household use of gas and electricity. This so-called lifeline system reverses the policy of charging less per unit of natural gas or electricity used as the amount consumed goes up. Said Commissioner Leonard Ross: "We are telling utilities to get out of the growth business." He estimated that 40 percent of PG&E's monthly bills would be affected by the "lifeline" concept.

The PUC stand anticipated the Legislature's action earlier last month in sending Governor Brown a bill declaring that "light and heat are basic human rights and must be made available to all the people at low cost for basic minimum quantities." Under the policy the basic rate will remain frozen until the average rate charged all customers is 25 percent higher. This differential must thenceforth be maintained.

People's Lobby could become a bar as name is sold People's Lobby made a certain name for itself and its founder, Ed Koupal, in promoting political reform, most notably the Political Reform Act of 1974. But the group lost the right to its corporate name when it failed to submit to the Franchise Tax Board on time an annual report required of all tax-exempt corporations.

A Sacramento bartender, Gilbert Rosales, quickly reserved rights to the name by paying $6 to the Secretary of State's Office, but added that he was uncertain whether he would exercise his option on it. Koupal, on the other hand, was certain not to give up "People's Lobby" without a fight. He charged political harassment and himself reserved a dozen names of similarly suspended corporations, including Helena Rubenstein. [See "The Koupals' petition factory," *CJ*, March 1975.]

Coastal commission adopts its plan to protect state's shore The California Coastline Commission ended its three-year planning effort last month and adopted a master plan to protect the state's 1,078 miles of ocean front. The plan must be approved by the Legislature.

The document places major responsibility for carrying out the protective measures on local governments, which would have three years to develop their own plans in conformity with the state guidelines. The commission would continue to review local decisions on a permanent basis.

The plan was authorized by the voters in passing Proposition 20 in 1972. Commissioner Roger Osenbaugh anticipated no rubber-stamp approval from the lawmakers. "We have a big selling job to do," he predicted.

Farmhands begin voting on who will represent them The new state Agricultural Labor Relations Board began sanctioning union-representation elections last month, with most of the rivalry coming from the Teamsters and the United Farm Workers of America. The initial elections — biggest of which took place at Gallo winery in the San Joaquin Valley — were marked by predictable contentiousness, and the biggest flap resulted in the ouster of Norman Greer, director of the board's Salinas Office. Cesar Chavez, leader of the United Farm Workers had accused Greer and the state board's counsel, Walter L. Kintz, with favoring growers and the Teamsters. Both these groups tended to see the board as favoring Chavez.

In the initial flurry of hastily organized labor-representation elections, the Teamsters and VFW both did less well than each had anticipated, each winning about half the contests and bargaining rights for half the workers involved.

No lack of entrants in race to succeed Assemblyman Z'berg Governor Brown called a special election for November 4th to fill the Assembly seat made vacant by the sudden death August 26th of Democrat Edwin Z'berg of Sacramento. Z'berg's widow, Merle, decided not to seek to succeed her husband, leaving the field to eight candidates as the filing deadline was reached September 19th. If none wins a majority, a run-off will take place December 2nd between the top Democrat and Republican.

The candidates: Republicans Mike Abernathy (defeated by Z'berg in November) and Andrew Gyorke; Democrats Ida Casillas, Joseph Espigares Jr., Victor H. Fazio, Tom Hannigan, Gilbert Martinez, and Michael Sands.

The district is about 40 percent Yolo County, 30 percent Solano County and 30 percent Sacramento County.

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GAY POWER

From closet to voting booth

By NANCY FRIEDMAN

November 1974. *Los Angeles City Councilman Ed Edelman wins a seat on the County Board of Supervisors and appoints David Glascock, head of the Gay Political Action Council, as staff assistant. Glascock's priorities: to implement counseling and shelter programs for homosexual juveniles.*

December 1974. *San Franciscan Jim Foster, statewide chairperson of the Gay Caucus of the California Democratic Council, is a delegate to the Democratic mini-convention in Kansas City. Foster is one of five openly homosexual delegates and alternates nationwide.*

January 1975. *With the encouragement of other "gay" activists, George Raya becomes the state's first homosexual-rights lobbyist. Raya's first task is convincing legislators to vote for AB 489, which removes legal sanctions against a number of previously illegal sexual acts performed in private by consenting adults. These acts include homosexual behavior.*

March 1975. *Jo Daly is appointed to San Francisco's Human Rights Commission. Daly, a lesbian, will handle complaints from homosexuals about job discrimination.*

Out of the closet

Homosexuals are coming out of the closet and stepping into the political arena. Like other minority groups, a growing number of California's homosexuals are uniting to assert a new force on the state's politics. With passage of AB 489, politically aware homosexuals are seeking now to remove all legal stigma attached to what they view as a way of life.

This growing political minority counts among its members not only homosexuals but a number of presumably "straight" legislators. The latter may be acknowledging that the homosexual vote can be valuable, or they may consider simply that a person's sexual behavior is a private matter in which the government has no right to intrude. But whatever the politician's motive, the political emergence of homosexuals is forcing many legislators to reconsider the boundary between morality and politics.

Take the recent career of Assemblyman John Francis Foran of San Francisco. After reapportionment in 1972, Foran had an entirely different Assembly constituency, one composed, he says, of "every area in the city where gay people reside." Previously the most moderate of San Francisco's Assembly members, Foran in the past few years has followed Assemblyman Willie Brown's lead in support of homosexual rights. He would, for example, make it illegal for employers to discriminate on the basis of an applicant's sexual orientation, the subject of his AB 633 (defeated on the Assembly floor last month).

Legislators like Foran have found it a political necessity to listen to the demands of their homosexual constituents. Conversely, to ignore or oppose this bloc of voters may prove foolish — or even disastrous — for a political incumbent or contender. Earl Rick Stokes, a San Francisco attorney active in these matters, said that homosexuals discovered while lobbying for AB 489 that "there are several legislators in Sacramento who are just obstacles. We'll be going into their districts and finding viable opponents and beating them when they come up for re-election," he warned.

Gubernatorial politics

In last year's gubernatorial primary, most homosexuals were said to support Democrats William Matson Roth or Bob Moretti — Roth because he has a number of homosexual friends, and Moretti because he's a friend of Willie Brown. In the general campaign, politically active homosexuals failed to arrange a meeting with the Republican nominee, Houston Flournoy, but did meet with Edmund G. Brown Jr., who offered only token support. Brown told them that he was sympathetic to their cause but that to announce his support publicly might damage his election chances. David Goodstein, publisher of the homophile biweekly *The Advocate*, calls it "stupid" of Flournoy not to have met with the delegation. "The gay population is diversified but tends to be more conservative than the average," Goodstein explained. "We might well have been strong supporters of Flournoy, but he ruined his chances by not meeting with us."

The "gay vote" has been influential in other races as well. Los Angeles City Attorney Burt Pines won 58 percent of the vote in 1973 after a rough campaign in which his support of Los Angeles homosexuals against police harassment was a major target of his incumbent oppo-

The author, a graduate student in journalism at the University of California at Berkeley, is a summer intern with the California Journal.

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nent. Los Angeles Supervisor Ed Edelman, elected from a district that includes about two-thirds of the county's 300,000 homosexuals, was the first candidate in city history to have a "gay rights" statement in his general campaign brochure. During his campaign, Edelman toured "gay" bars and visited a "gay" church in West Hollywood. After the election he appointed David Glascock, who describes himself as a homosexual, to his staff. Ironically, Edelman's office now is reluctant to allow Glascock to be quoted on behalf of Los Angeles homosexuals. "He is a staff person who happens to be gay," an assistant press secretary said, "*not* a gay staff person." (Part of the office's hesitation may be attributed to the memory of Glascock's 1974 arrest on sex-conspiracy charges — charges that were dropped just before the election. Glascock himself blames the attitude of Los Angeles' police department — notoriously hard-line in matters of morals — for the "paranoia" in city government. The stance of the LAPD has been briefly summarized by a press-relations officer who said, "We tell 'em, 'If you want to be a fag, go to San Francisco.' ")

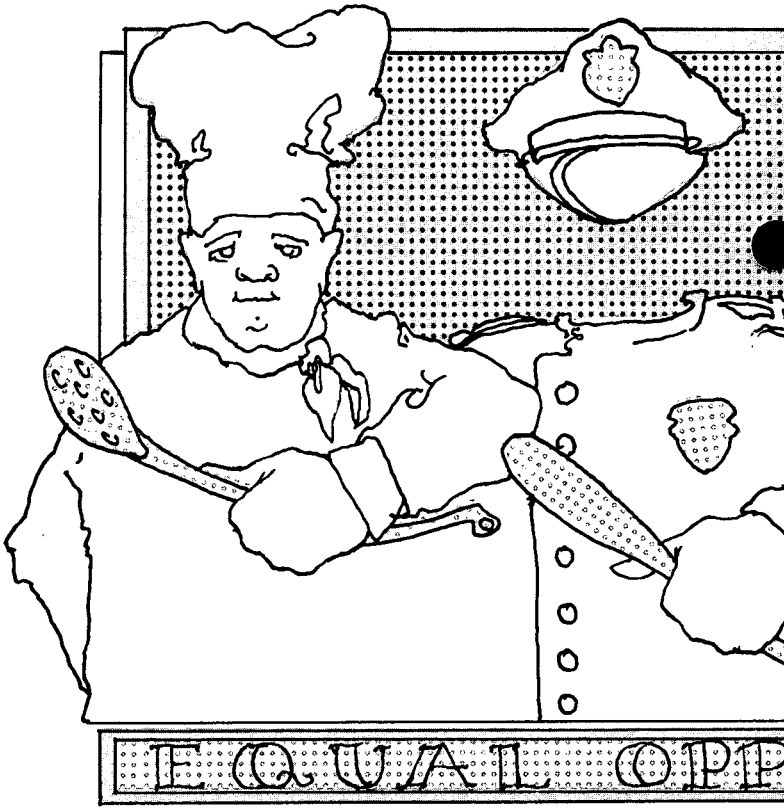
New bed fellows

San Francisco voters will have a unique choice in next year's mayoralty race: not one but *three* candidates are actively seeking the homosexual vote. They are Supervisor Dianne Feinstein (author of the city's 1972 administrative code amendment prohibiting job discrimination against homosexuals), and state Senators Milton Marks, a Republican, and George Moscone, a Democrat. Two candidates for district attorney — Carol Ruth Silver and Joseph Freitas — are hammering at incumbent John Ferdon's record vis-a-vis homosexuals. "Ferdon won't get six gay votes," Goodstein predicted. In addition, three openly homosexual men — of strikingly different political tendencies — are running for supervisorial seats. One, a fiscal conservative, finished 10th in a field of 28 in the 1973 race for the same office; another has often supported the police against "gay" demonstrators; and a third was active in Vietnam Veterans Against the War.

Though political party affiliation among homosexuals is about the same as that found in the population generally, most have been doing their main political activity within the Democratic Party. "The Democratic Party is the stronger party," says attorney Stokes. "And often our own political philosophy tends to put us there. Also, over the past six years (the period since AB 489 was first introduced) we've made friendships with other Democrats who are not necessarily gay but who are cut from the same mold as we are." That mold generally includes an inclination toward asserting the rights of senior citizens, Blacks, Chicanos and women.

Political clubs

Four clubs of Democratic homosexuals have formed during the past four years — three in San Francisco, one in Los Angeles. The clubs, all affiliated with the California Democratic Council, get out the vote in precincts and work on specific issues of interest to their members. One of the earliest was the Alice B. Toklas Memorial Democratic Club (named for Gertrude Stein's constant companion). Jo Daly of San Francisco's Human Rights Commission, an early member, said that in 1972 the club delivered 80 to 85 percent of its predominantly homosexual precincts, compared with 50 to 55 percent delivered by other clubs working other areas. Working thus within a major party, Daly said, homosexuals can influence "the people who count" — those who make the



laws. "It means more," she explained, "to have a straight senator talking to another straight senator about gay civil rights than to have a gay person talking about the issue."

One critic of moderate gay politics is Howard Wallace, founder of Bay Area Gay Liberation (BAGL). Wallace's group, which has a strong Socialist Workers Alliance core, neither makes political endorsements nor openly urges homosexuals to run for office. "A gay candidate *per se* doesn't necessarily mobilize a lot of gay support," Wallace said. "And when you endorse one candidate he starts taking you for granted, assuming he's got the 'gay vote' wrapped up. The movement is not going to be built by candidates. It's going to be *used* by candidates." The best way to influence the political process, Wallace maintains, is to "put the heat on *all* the politicians."

Confrontation tactics

Founded last spring in reaction to a police sweep of homosexual men in San Francisco's Castro Street area, BAGL is notable among homosexual political organizations for its size (300 members, 100 of whom regularly attend meetings) and its use of confrontation tactics. The group is concentrating on forming "gay caucuses" within San Francisco's labor unions and in getting unions to hire and promote declared homosexuals. So far it has established caucuses in three unions, representing hospital workers, culinary workers and teachers. "San Francisco has historically had a strong labor movement and a large gay population [about 13.5 percent of the city's 690,000 inhabitants]," Wallace said. "Unions and gays are natural allies."

Though BAGL is somewhat of a radical thorn in the side of the more establishment-oriented homosexual activists, all agree that employment rights for homosexuals holds top priority on their political agenda right now. It is, they feel, more important than electing an avowed homosexual to office, and of more immediate concern than getting people in professions and political office to "come out" and publicly acknowledge their own homosexuality. The battle for fair-employment practices is being waged on several fronts: within labor unions, in

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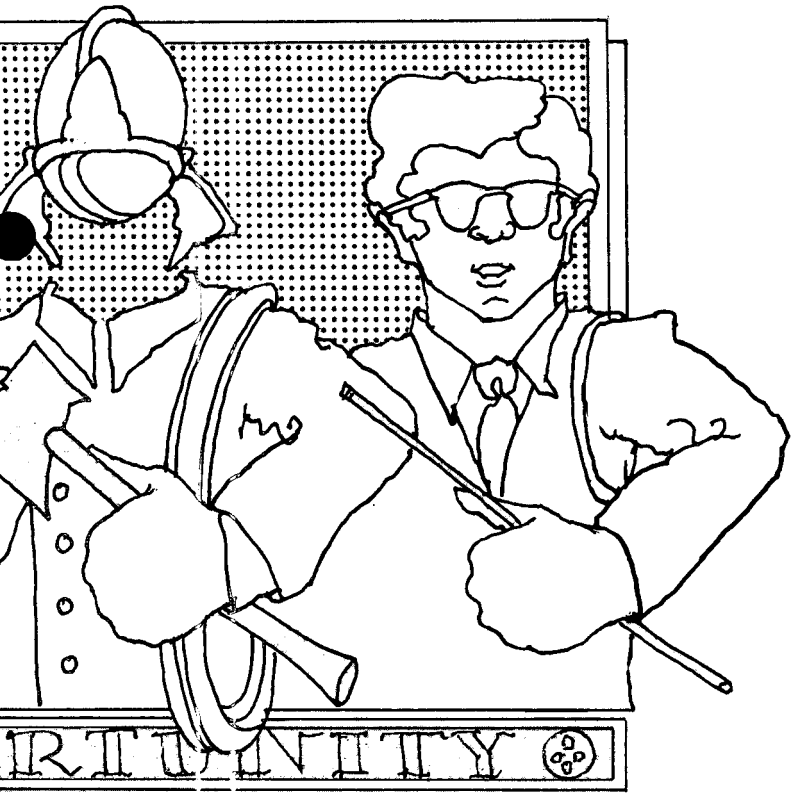


local government, in the Legislature, and in Congress (where legislation has been introduced to amend the 1964 Civil Rights Act to include homosexuals in its anti-discrimination clauses).

Cities act

So far, seven California cities have passed ordinances or resolutions extending fair-employment practices to homosexuals: San Francisco, San Jose, Palo Alto, Berkeley, Mountain View, Cupertino and Sunnyvale. The Los Angeles City Council voted down a similar proposal in July. San Francisco's ordinance, passed in 1972, prohibits discrimination on the basis of sexual orientation by any city or county agency, or by any company contracting with the city or county.

The issue of homosexuals in police or fire fighting uniforms has been a sticky one for most municipalities. Although the Los Angeles Personnel Department no longer asks applicants for civilian city jobs if they have "homosexual tendencies", that is not true of the police or fire departments. Police Chief Ed Davis said that hiring homosexuals would "destroy both the morale and efficiency of the Police Department." The strongest support for homosexuals' job rights in civil service has come

Out of the closet and into the arena — a partial directory of 'gay' politics

Alice B. Toklas Memorial Democratic Club
Harry S. Truman Democratic Club
City and County of San Francisco Reform Democrats
Hollywood Hills Democratic Club.

All four of these homosexual political clubs are California Democratic Council affiliates, the first three located in San Francisco, the last in Los Angeles. Alice B. Toklas, the largest and oldest, was organized shortly before the 1972 presidential campaign and has some 100 members, including non-homosexuals. The City and County, the newest (formed last spring), is concentrating on specifically local issues. The Truman club was founded in reaction to the Toklas club and is not taken seriously by the Northern California CDC.

Bay Area Gay Liberation (BAGL)

Labor-oriented, San Francisco-based, dedicated to building a broad-based leftist movement among homosexuals in the Bay Area, BAGL is currently forming "gay caucuses" within labor unions, but has been involved in such other issues as the recent murder trial of Joan Little. ("Little is a symbol of many issues that touch gays — she is Black, she is a prisoner, and she was raped," explained BAGL founder Howard Wallace.)

Pride Foundation, Inc.

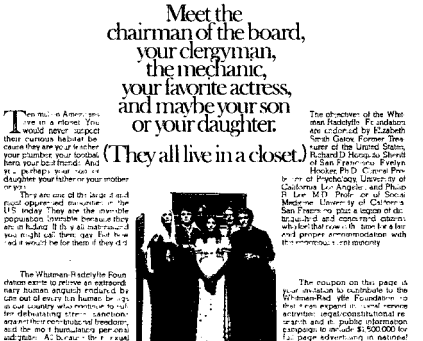
Also San Francisco-based, Pride has been trying for two years to get Pacific Telephone to alter an employment policy under which it refuses to hire "manifest homosexuals". Pride claims that PT is a city contractor because it installs telephone booths along the streets of San Francisco (in violation of the city's anti-discrimination law,) but so far has failed to prod city officials to engage the company in a showdown.

Society for Individual Rights (SIR)

Founded 11 years ago in San Francisco, SIR is one of the city's oldest homosexual organizations. It operates a speakers' bureau, surveys candidates and holds candidates' nights during election campaigns, runs an employment service, and will soon start a municipally funded project to find jobs for physically handicapped homosexuals.

Whitman-Radclyffe Foundation

Named for Walt Whitman and Radclyffe Hall, both homosexual writers, this San Francisco-based foundation recently undertook an advertising campaign in the California editions of *Time* and


Meet the chairman of the board, your clergyman, the mechanic, your favorite actress, and maybe your son or your daughter.
(They all live in a closet.)

Newsweek, as well as a number of local magazines. (The ads had raised about $7,000 in contributions by September.) The fund was to go to finance legal research, social service activities, and additional public-information campaigns, according to the appeal.

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from City Attorney Burt Pines, who issued a legal opinion in May, stating that an applicant could not be denied a civil-service job for reasons not related to the job. Despite Davis's warning, however, LAPD has a Gay Police Task Force.

Other issues

The political agenda for those embracing the homosexual cause also includes the following legislative proposals:

Guaranteeing equal rights of homosexual parents to child custody. *It is most frequently lesbian mothers, rather than homosexual fathers, who have been frustrated in their attempts to win custody of their children in divorce actions. The controversy may ultimately be settled in the courts, not in the Legislature.*

Amendments to the Welfare and Institutions Code. *A "mentally disordered sex offender" is now subject to spending life in a mental hospital for a crime that carried a six-month jail sentence. The goal of the political reformers is to see civil commitment procedures replace criminal ones where appropriate.*

Strengthening professional licensing procedures. *A law disallowing "unprofessional conduct", which can mean homosexual behavior, as cause for denying a professional license was passed during the Reagan administration, but several professional boards have chosen to disregard it.*

Solicitation statutes. *Still an inflammatory issue, solicitation (both homosexual and heterosexual) would be decriminalized under a bill introduced by Senator Moscone.*

Legislation being put together by Assemblyman Lawrence Kapiloff's staff is expected to include several of the proposed civil reforms.

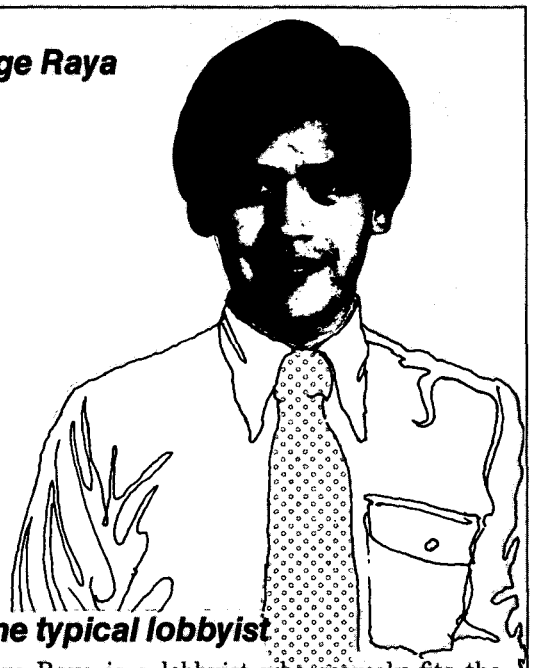
Some who speak on behalf of the homosexual "community" see a change in marriage laws to permit marriages between couples of the same sex. Others would prefer reforms in tax and insurance laws to make it easier to follow an unmarried way of life.

What politicians would like to know at this point is whether the homosexual "community" can be counted on to vote as a bloc on issues reaching beyond homosexual rights. Says publisher David Goodstein; "The gay population is too diversified to make any generalizations." Still, given the right issue, homosexuals can deliver a bloc of votes. "It's easy to get gay people to make a bloc vote when the subject matter is law enforcement," maintains David Glascock. Howard Wallace envisions a coalition among leftist groups including labor unions, Chicanos, Blacks and feminists:

Sympathetic politicians can probably count on homosexual activists to provide a pool of campaign volunteers. "Politicians don't care what their volunteers are like in their private lives," Goodstein says. "They know they can rely on gay people to help them turn out the vote and to give the voter a presentable image." In return, Goodstein says, the politician is expected to support homosexuals' "human concerns".

Short of erasing "homophobia" from human consciousness and sexual preference from the consideration of governments and employers, the failure of a petition campaign to block implementation of AB 489 is a sign to some that the public is gradually becoming more accepting of nonconforming sexual behavior. But the challenge of altering attitudes remains the most difficult of all — and will remain to be faced once laws and employment policies have been changed.

George Raya



Not the typical lobbyist

George Raya is a lobbyist who scarcely fits the image of the fat-cat, favor-peddling manipulator. For several months after his arrival in Sacramento last December to lobby for passage of AB 489, decriminalizing a number of sexual acts when performed in private by consenting adults, he was surviving on food stamps and income from blood-plasma donations. Then *The Advocate*, a homophile publication, started a fund to keep Raya on the job.

As the California "gay" population's representative in the Capitol, the 26-year-old former law student and political activist for labor and Chicano causes divides his time between Assembly offices and communities throughout the state where he is building support for further "gay-rights" legislation. Raya scrounges office space from Assemblyman Willie Brown, when he can, but is generally on the move. On learning that Assemblyman Tom Suitt had received only one letter favoring passage of AB 633, making it illegal for employers to discriminate among job applicants on the basis of sexual preferences, Raya organized non-partisan political action groups in Southern California. As a result of his efforts, one San Fernando Valley group turned out 1,700 letters and telegrams to Governor Brown while he was considering AB 489.

That's important to Raya's success as a lobbyist, he thinks. "I have to relate to the gay community throughout the state and show the legislators that I've got support in their districts," he observed.

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MAYOR OF SAN FRANCISCO

The job nobody should want~ and everybody does

By JERRY BURNS

The office of mayor of any big city may be a political dead end in recent times (and if you harbor any doubts, ask John Lindsay, Sam Yorty or even Joe Alioto), but you wouldn't know it from the classy field that has turned out for the latest running of the San Francisco mayoral sweepstakes. Five major candidates and a huge assortment of guaranteed also-rans make up the field that will leave the starting gate on Tuesday, November 4th. It will look less like a political race than a replay of the Oklahoma land rush.

No one is quite certain why the race is such a lure this year. In the recent past, the mayoral campaign has drawn (in addition to its usual share of cranks, kooks, gurus and sincerely motivated nobodies) a regular turnout of three major candidates. In 1971, there were Alioto, Dianne Feinstein and Harold Dobbs, a former supervisor and regular stalking-horse for San Francisco Republicans. Four years earlier, it had been Alioto, Dobbs and Jack Morrison, another former supervisor. Each time, the race featured a Republican (Dobbs), a regular Democrat (Alioto) and a liberal Democrat (Morrison in 1967 and Feinstein in 1971). So why, this year, are there five star attractions in the race?

Instead of one Republican, there are two (Supervisor John Barbagelata and state Senator Milton Marks). Blame the apparent redundancy on the fact that party labels mean little in California and that there is no party control or discipline. There is only one certified liberal Democrat (state Senator George Moscone), but he has plenty of Democratic company in the persons of Supervisor Feinstein (a sometimes liberal) and Superior Court Judge John Ertola (the most conservative Democrat in the race, though the word is used in a San Francisco context). Again, the lack of a strong party system can be credited for the turnout of major Democrats in the race. And why are they all running helter-skelter for the privilege, such as it is, of serving as mayor at a time when San Francisco's financial and political fortunes, in addition to its population, are all in a downward spiral? Blame it on political ambition (being mayor of a major city may have its problems, but it is, after all, a step or two above being a relatively anonymous member of a large legislative body); blame it on ego ("just because Alioto couldn't solve the city's problems doesn't mean *I* can't!"); blame it on chauvinism (the five major candidates are all natives of San Francisco and look upon the office of mayor as a goal, not just a stepping stone); and blame it on the lack of other available political alternatives (the two local seats in the House of Representatives seem firmly, and all-but-permanently, in the hands of the brothers Phil and John Burton, and California's seats in the United States Senate seem unlikely to be available in the near future).

New ground-rules

But such a star-spangled array of candidates can also be attributed to a pair of very significant changes in the ground-rules of mayoral politics in San Francisco. First, there is the new run-off system for choosing a mayor by majority vote. San Francisco voters, reacting perhaps to the election of Alioto with less than 40 percent of the popular vote, changed the city charter to provide for a run-off in the event that no candidate wins a majority in the regular November election. This is the first mayoral election in which the new run-off system will apply — and few observers expect anyone to win a majority in November. A December run-off is generally regarded as a certainty. The prospect of a one-on-one run-off was surely an attraction to some of the mayoral candidates, particularly those who might not figure to have done well in the old system's one-shot popularity contest. Secondly, there is San Francisco's new campaign-spending law. Some of the present candidates would certainly not have entered the race if they faced the prospect of having to raise half a million dollars, such as Alioto raised (and spent) in 1971. Instead, the new limit is set at a shade beneath $130,000. It's not peanuts but, even in this era of tight money and shy, post-Watergate contributors, it's low enough so that the candidates know that they are not going to be blitzed by an opponent's media campaign or other expensive political weapon.

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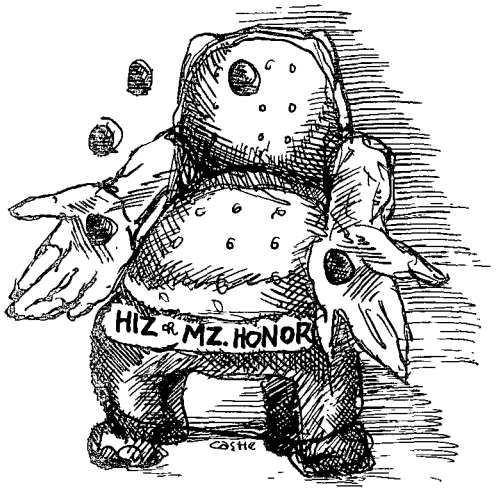

The author, who covers City Hall for the San Francisco Chronicle, *wrote "The fall and rise of San Francisco" in the November 1973* California Journal.

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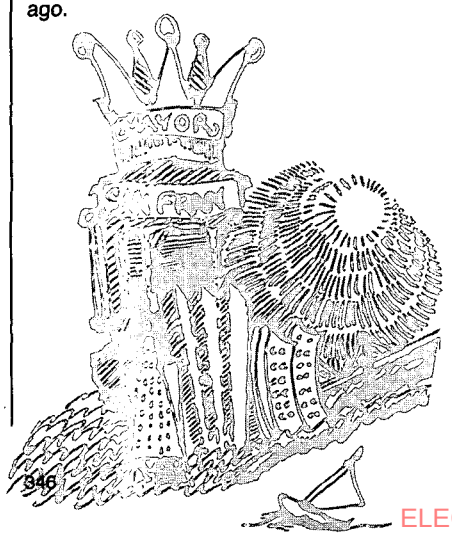
That's the background against which the current race is being run, and here, in alphabetical order, are the top entries:

Profiles of the five leading candidates

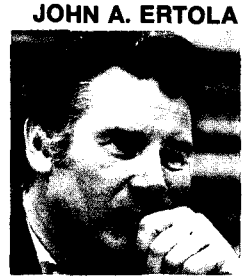
JOHN BARBAGELATA

John Barbagelata, 56, is married, the father of eight children, Catholic, a graduate of the University of San Francisco, owner of a successful real estate business. The most conservative of the major candidates, Barbagelata came into public prominence campaigning against crime, taxes and hippies who lower property values.

Elected to the Board of Supervisors on his first try in 1969, he easily won reelection in 1973, though he failed to achieve his goal of finishing first. For six years, he has been the most conservative voice among the 11 supervisors, frequently waging long, lonely battles against existing pay systems for city employees. City law requires San Francisco to pay wages prevailing in private industry and other government jurisdictions, but strict application of that rule would freeze wages for thousands of city clerks and other low-end employees and grant hefty raises to attorneys, engineers, doctors and administrators, at the upper end of the pay scale. While most of the supervisors have found it politic to grant across-the-board increases every year, Barbagelata, armed with his ever-present pocket calculator, has fought unsuccessfully for strict use of the prevailing-wage rule. He has approached every problem with an uncompromising, almost fanatical zeal and a tremendous capacity for research, despite having suffered a serious heart attack several years ago.



JOHN A. ERTOLA



John A. Ertola, 48, is married, the father of two children, Protestant, an attorney, a Superior Court judge. A graduate of Stanford University and the University of San Francisco Law School, Ertola has been one of the city's most successful candidates in prior appearances before the voters.

He was first appointed to the Board of Supervisors in 1964 (by former Mayor John F. Shelley to replace Ertola's late father, Dr. Charles Ertola, whose deathbed wish was that his son succeed him on the board), and he easily finished first in the field when he ran for a full term in 1967. That time, John Ertola polled 30 percent more than his nearest rival, then-Supervisor (and now Assembly Speaker) Leo McCarthy, and was rewarded for his top finish by being elected president of the board. Before being appointed in 1964, Ertola had been a member of the California Veterans Board (appointed in 1956 by then-Governor Edmund G. Brown) and vice chairman of the County Democratic Committee. In 1970, after a six-year career as supervisor (in which he generally followed a political course in the middle or slightly to the right of the board), he successfully ran for a seat on the Superior Court bench.

Ertola, who describes himself as a fiscal conservative, has been endorsed in this race by former Mayors George Christopher and Elmer Robinson. As did Robinson, Ertola has taken a leave to run for mayor.

DIANNE FEINSTEIN

Dianne Feinstein, 42, is married, the mother of one child, Jewish and the president of the Board of Supervisors. Another graduate of Stanford, she prepared for political office by serving as a CORO intern and by being a member (also appointed by the first Governor Brown) of the California Women's Board of Terms and Parole. She became a certified political phenomenon by finishing first among the candidates for supervisor in her initial try at elected office in 1969. The magic was dimmed somewhat in 1971, when she made a weak and hasty effort at running for mayor, but she rebounded in 1973 to finish first again in the at-large race for supervisor.

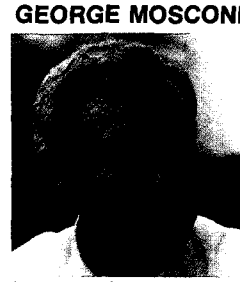
Not easy to categorize politically, Feinstein has generally been considered to be a liberal Democrat, except for a rather hard-line stance against pornography. Her main legislative interests have dealt with jail reform, changes in Police Department administration, and tough residency rules for city workers (later erased by the voters of the state in a constitutional amendment barring cities from adopting residency laws). She also attempted to require San Francisco restaurants to disclose on their menus when they use pre-cooked, frozen entrées, but her proposal was easily defeated.

MILTON MARKS

Milton Marks, 55, is married, the father of three children, Jewish, an attorney and a member of the state Senate. Also a graduate of Stanford, he attended San Francisco Law School. Marks, the son of a former supervisor and state assemblyman, failed in his first two attempts at running for public office (losing to Caspar Weinberger for an Assembly seat in 1952 and to Charlie Meyers in 1954). But he has won seven straight elections since 1958, when he finally won an Assembly seat. Since then, he was reelected to the Assembly three times (against George Moscone in 1960, Josiah Beeman in 1962 and John Davids in 1964), served a brief term as a Municipal Court judge (appointed by Governor Brown in 1966), won a special election to the state Senate (in 1967, against now-Congressman John Burton, to fill the vacancy created by the death of Gene McAteer) and was reelected to the Senate twice (against now-Judge William Newsom in 1968 and, in 1972, Supervisor Ronald Pelosi, Newsom's brother-in-law).

Although a Republican in a predominantly Democratic city, Marks has proven to be an enormously successful vote-getter by appealing to a middle area of businessmen, home-owners and several maritime unions. Being of neither a strongly conservative or liberal bent, he has survived a long series of political battles by steering a middle course on most issues.

GEORGE MOSCONE



George Moscone, 45, is married, the father of four children, Catholic, an attorney and a member of the state Senate. A graduate of the University of the Pacific and Hastings Law School, Moscone made an unsuccessful try at public office in 1960 against Marks, but rebounded to win election to the Board of Supervisors in 1963 and election to the Senate in 1966. He was re-elected in 1970, by the largest margin in the state that year, and again in 1974, after a fling at running for governor that he aborted before his name actually was placed before the electorate.

Far more issue-oriented than Marks, he has championed such causes as no-fault auto insurance, strict laws on conflicts-of-interest and asset-disclosure by public officials, tax revisions, easing marijuana laws, abolition of the death penalty, low-cost health care, and lower voting ages, among the more controversial legislative subjects he has taken up.

In 1969, he was voted the best all-around and most effective Democrat in the Senate in a poll of Capitol reporters. Moscone is clearly the most liberal among the major contenders in the mayor's race, with support from the Burton brothers and the liberal wing of the Democratic Party in San Francisco.

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Meanwhile, behind the scenes . . .

Those are the five major candidates. Behind the scenes are a set of campaign managers of widely varying background. Other than Barbagelata, who always runs his own campaigns, the major candidates have hired the fastest political guns in town. Ertola has Harvey Hukari, a relative newcomer to the field who has worked to reelect several Republican congressmen and nearly brought off the upset of the year in 1974 when his candidate, Gordon Knapp, narrowly missed defeating Representative Pete McCloskey in the Republican congressional primary. Feinstein has Ron Smith, a wily young man who orchestrated McCloskey's narrow victory and specializes in Republican campaigns. He has made an exception for Feinstein, whose 1973 campaign he also conducted. Marks has Sandy Weiner, who made his mark when he guided McCloskey to his inaugural victory some years ago over Shirley Temple Black and conducted Feinstein's smashing political debut in 1969. Moscone's campaign is in the hands of Don Bradley, an old hand in Democratic politics — particularly in Pat Brown campaigns.

These five candidates will cut up San Francisco's traditional political power sources in a variety of ways. Italians, for example, will generally be split among Barbagelata, Ertola and Moscone, with a subdivision of conservative Italians among the first two. Other blocs will be cut up these ways: *Jews* — Feinstein and Marks, with many liberal Jews for Moscone; *Republicans* — Barbagelata and Marks; *Catholics* — Barbagelata, Moscone and Ertola (who isn't Catholic, but is widely believed to be anyway); *conservatives* — Barbagelata and Ertola, with a shade for Marks and Feinstein; *minorities* — Moscone and Feinstein, with a tad for Marks; *labor* — Moscone and Marks. Moscone appears to have the very liberal vote all to himself, while Feinstein must be expected to do very well among female voters (except for Sunset District housewives who believe that a woman's place is in the home). As for the city's sizable contingent of Irish voters, it is generally assumed that, lacking an Irish candidate, they will look favorably upon the more conservative Barbagelata and Ertola, and somewhat on Marks.

Changing field

Politically, the race seems to have changed considerably from the way it appeared when the first candidates began to emerge at the beginning of the year. Moscone broke from the gate fast, with Marks hot on his heels; there was a gap, then Feinstein lead the rest of the pack. It was generally felt that the state Senators, operating in the relative anonymity of Sacramento, could stay out of trouble and make it very difficult for any local candidate — particularly one on the firing line every day at City Hall — to catch them. But the Senators seemed to sag in mid-summer and, as they attempted to regain some of that lost momentum, the polls showed Feinstein catching up to them. By mid-August, the polls suggested that she was actually in front, followed closely by Moscone, with Marks somewhat farther back, then a considerable gap, with Barbagelata and Ertola bringing up the rear. But that was before the city's first police strike, which had a stunning impact on the citizenry. (Amazed officials said later that they couldn't remember any issue that had brought them more mail, phone calls and other citizen reaction. And the reaction was almost unanimously in favor of the supervisors' tough stand and opposed to Alioto's settlement with the striking cops.) Feinstein and Barbagelata, two of the toughest-talking supervisors, appeared to be the main beneficiaries of the political aftereffects of the strike. They made bitter enemies of the city's policemen and firemen, who have demonstrated their political clout at the ballot box many times, but that seemed offset by the reaction from voters who were aghast that the security services had actually gone on strike.

In the middle of this cauldron of public opinion, Senators Moscone and Marks and Judge Ertola remained vague and noncommital, with statements to the effect that they would not have allowed negotiations to reach the striking point if *they* had been in power. It was a position, at least in the immediate aftermath of the strike, that didn't seem to wash with many voters. How much of the effect will linger by November 4th is a question that won't be answered until then.

Feinstein *vs.* Moscone?

By Labor Day, the traditional kick-off date for intensive campaigning, the feeling was widespread in political circles that Moscone and Feinstein would lead the pack in November and meet in a December run-off. Since the beginning of the year, it has been assumed that Moscone would be a finalist for many reasons, not the least of which was his support by the Burton brothers and their Democratic Party apparatus in San Francisco.

Whoever finally wins occupancy of the big office in Room 200 City Hall, victory will create a new vacancy to be fought over. If Ertola wins, the Governor can appoint a new judge in his old hometown and, if either Feinstein or Barbagelata wins, whoever of them becomes mayor can name her or his replacement on the Board of Supervisors. The most interesting situation would arise if one of the state Senators won. If it is Moscone, then at least two supervisors (Democratic conservative Quentin Kopp and Republican middle-of-the-roader John Molinari) are expected to run for his vacant seat. If it is Marks, another two supervisors (liberal Democrats Bob Mendelsohn, who lost to Ken Cory in the Democratic primary race for controller last year, and Ronald Pelosi, who lost against Marks in 1972 for the same seat) are likely to battle for the Senate district.

In San Francisco, with many ambitious politicians and very few political opportunities, the fight is never over.

Out of print: Our Roster
In print: Our Almanac

The 1975 edition of the **CALIFORNIA JOURNAL ROSTER AND GOVERNMENT GUIDE** is now out of print. We recommend that orders be placed as soon as possible for the 1976 edition, which will be part of February's *California Journal*. (Reprints will be available.)

Most of the material in the roster is also included, however, in the new **1975-76 CALIFORNIA JOURNAL ALMANAC OF STATE GOVERNMENT AND POLITICS.** It costs $3.13, including tax. Send orders to Journal Almanac, 1617 10th St., Sacramento 95814.

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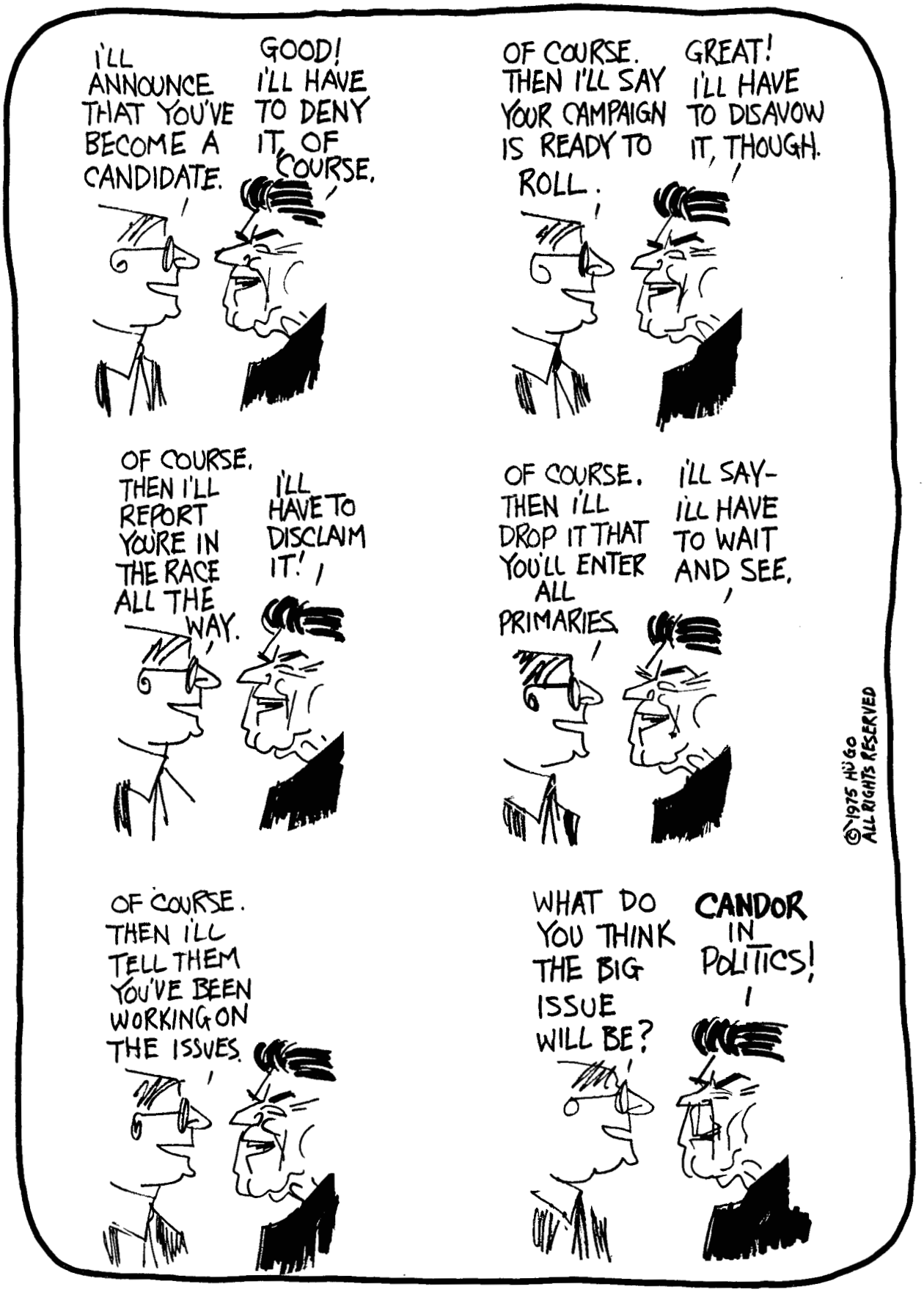
Caucus

by HüGo


I'LL ANNOUNCE THAT YOU'VE BECOME A CANDIDATE.
GOOD! I'LL HAVE TO DENY IT, OF COURSE.
OF COURSE. THEN I'LL SAY YOUR CAMPAIGN IS READY TO ROLL.
GREAT! I'LL HAVE TO DISAVOW IT, THOUGH.
OF COURSE. THEN I'LL REPORT YOU'RE IN THE RACE ALL THE WAY.
I'LL HAVE TO DISCLAIM IT!
OF COURSE. THEN I'LL DROP IT THAT YOU'LL ENTER ALL PRIMARIES.
I'LL SAY- I'LL HAVE TO WAIT AND SEE.
©1975 HüGo ALL RIGHTS RESERVED
OF COURSE. THEN I'LL TELL THEM YOU'VE BEEN WORKING ON THE ISSUES.
WHAT DO YOU THINK THE BIG ISSUE WILL BE?
CANDOR IN POLITICS!

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L.A. MASS-TRANSIT PITFALLS

Palaver, politicking and procrastination

By ROBERT MEYERS

In the Late Pleistocene Era, which preceded Sam Yorty's mayoralty of Los Angeles by some 30,000 years, sabre-tooth tigers, dire wolves and curved-tusk mastodons clawed, hacked, chewed and otherwise did each other in. Often, their fighting took place at Rancho La Brea, in whose tar pits bordering Wilshire Boulevard their remains were preserved for later discovery. Now a new set of Great Beasts has come to dispute the same area, and the conflict is not so much over territorial hunting rights as preferential paths for rapid-transit vehicles. These modern creatures — politicians, bureaucrats and planners — often, like the beasts of old, tend to mire in the muck.

The Los Angeles area already has a rapid-transit system of sorts, the 470-mile freeway system. But it no longer meets the needs of the sprawling, highly urbanized region. (There is also a bus system that doesn't really begin to compete.) There is a consensus that a rapid-transit system must be built, but progress so far has been no match for palaver, provincial politicking and procrastination. Ray Hebert, urban affairs writer for the *Los Angeles Times,* summed up the chief element in the bureaucratic and political La Brea pit:

> *A major problem is the involvement of too many cities, public officials, governmental entities and public agencies. Their differing views have produced a confused deadlock. In view of this and the Los Angeles region's geography – 465 miles in the City of Los Angeles alone – an agreement may be next to impossible.*

Bradley's baby

If Sam Yorty had won reelection as Los Angeles' mayor two years ago, there would likely be no more than the usual fuss made about the area's lack of an inexpensive, high-speed and low-pollution solution to the problem of moving people about the county. But Yorty lost, and his successor, City Councilman Tom Bradley, had campaigned on that very issue, and he has kept it in the public eye ever since.

Almost as soon as he took office, on July 1, 1973, Mayor Bradley began pressing the recalcitrant bureaucracies, both within his administration and in the jurisdictions surrounding it, in an effort to produce rapid-transit plans. Bradley took the matter up with the Los Angeles County Board of Supervisors — apparently the first time in 40 years that city and county had met. Repeatedly, he declared that his administration's prime goal was construction of a working rapid-transit network. And yet, Los Angeles today still lacks not only a working network but even a specific plan for constructing one.

On June 6, 1974, Los Angeles County voters passed Proposition A, which enabled their government to take advantage of statewide Proposition 5, approved at the same election, permitting diversion of gasoline-tax revenues from highway construction to rapid-transit purposes. But only a few months later, in November, the voters turned down a one-cent sales-tax increase to provide the local share of funds needed to build a system. While a wildcat strike by bus drivers just before the election probably alienated some voters, Los Angelenos were also being asked pretty much to buy a pig in a poke; no one knew just where the system would go.

Federal quest

But Mayor Bradley persevered. If the sales tax could not be raised to finance a system whose cost somehow was estimated to be about a billion dollars, perhaps the federal government could come to the Mayor's aid. As much as $800 million might be available for Los Angeles rapid-transit development, in the form of 4-to-1 matching grants under the 1974 National Mass Transportation Assistance Act. Los Angeles would have to raise $200 million to qualify. A goodly number of cities, including San Francisco, Atlanta, Detroit, Miami, and New York were also competing for grants, but each had one thing that Los Angeles lacked: plans.

Los Angeles is not much like any of the competing cities. Within Los Angeles County are 77 incorporated cities. There are also a number of autonomous agencies created over the years to deal with specific regional functions. One of these is the Southern California Rapid Transit District, formed in 1964 to do what BART was struggling to do up north.

For years, SCRTD had poked along as, basically, a regional bus operator. But it also became intimately involved in rapid-transit discussions; in theory, at least, it had the capability to design a rapid-transit route, which the district's directors ordered only last month, on a link between Long Beach and downtown Los Angeles.

There are other agencies, however, and they became involved, too — such as SCAG (the Southern California Association of Governments), the California Department of Transportation, and planning commissions from most of the affected municipalities. Each of these bodies could exercise some control over the final outcome, either directly through withholding construction funds, or indirectly through the bureaucratic know-how and

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The author is a free-lance journalist living in Los Angeles.

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influence they had built up over a number of years.

The federal Department of Transportation, however, was not impressed by the inability of Los Angeles to agree on how to move people around the county. Washington wanted specific plans before it released any federal money.

Last spring, federal Secretary of Transportation William T. Coleman Jr. warned Mayor Bradley and other officials to act quickly if they expected some of the $11.8 billion appropriated for rapid-transit aid. Not only would a specific plan be necessary but also the local share of the matching funds. Of the roughly $200 million that the Southern California region would be required to raise, about half would be state-controlled gasoline-tax money, and in July, Donald E. Burns, secretary of the state Business and Transportation Agency, approved making the attempt to qualify the Southern California area for the federal funds. The rest of the $200 million would likely come from the County of Los Angeles ($51 million in gas-tax revenues), the City of Los Angeles ($31 million), the City of Long Beach ($2.5 million), and the cities of Glendale and Burbank (perhaps as much as $500,000 each).

Deadline pressure

A few days before the August 1st deadline set by Coleman, the federal official was notified by Byron E. Cook, president of SCRTD, that the various agencies and governments had agreed in principle on a rapid-transit "corridor". This corridor runs from Canoga Park, in the west end of the San Fernando Valley, eastward to Glendale and Burbank, then south down to Long Beach. The broad corridor avoided the local pitfalls of selecting a specific route, and it was adopted by the City of Los Angeles, the County of Los Angeles, the California Legislature, the cities of Long Beach, Burbank and Glendale, and the Southern California Rapid Transit District. All they agreed upon, however, was that a comparatively small rapid-transit line should go somewhere within this corridor, which is 8 to 13 miles wide and about 50 miles long.

YEP! ONE OF THESE DAYS WE'RE GONNA HAVE A RAPID "TRANSIT" SYSTEM INSTEAD... SOON AS WE DECIDE WHERE IT SHOULD GO!
PUBLIC OFFICIALS
CALIF.
RAPID INTRANSIGENT SYSTEM
AFTER FONTAINE FOX
Dick Wallmeyer — Long Beach Independent

The Toonerville Trolley

Within the corridor, two main plans took form. The first is informally known as the Baxter Ward-County Plan, and the second is the Cal Hamilton-City Plan.

County plan

Supervisor Baxter Ward represents much of the San Fernando Valley, including the highly populated east end with Encino and Sherman Oaks, and the agricultural areas of Newhall-Saugus. A former television reporter and commentator, Ward has had a considerable impact in local government since his election in 1972. Ward's influence comes from his stated unwillingness to play "hands-off politics" according to which one supervisor never meddles in the local politics of another supervisor's district), by his willingness to work, and by his handling of his own public relations.

Ward's plan would originally have involved a 53-mile route running mainly above ground on existing rights-of-way (often those owned by Southern Pacific), from Canoga Park to Burbank and Glendale, south and underground to central Los Angeles, then above ground again to Long Beach. The cost was estimated at $1.1 billion, not including the light-rail rolling stock powered by overhead electrical lines.

The Ward plan had the political virtue of touching nearly all funding bases: it would run through the City and County of Los Angeles, and the cities of Burbank, Glendale, and Long Beach.

On Friday, May 2, 1975, Supervisor Ward and Mayor Bradley met in an abandoned subway tunnel near downtown to announce their joint advocacy of such a system. It was at this point that the Ward plan became known as the Bradley-Ward plan, and was consequently adopted by the county supervisors. It seemed to have a lot going for it — endorsement by the supervisors and the mayor, and the fact that it seemed to offer more miles at less cost than the Cal Hamilton plan.

City plan

Calvin Hamilton is planning director for the City of Los Angeles. He has been a strong advocate of a plan, devised by his own department, that would run from North Hollywood (near Universal Studios) south through a tunnel under Cahuenga Pass and continuing underground to Wilshire Boulevard. There, the route would make a 45-degree turn eastward to the central business district before swinging south towards Long Beach, in part underground. This route would cover 24 miles and use what Hamilton terms "up-to-date" equipment, similar to that used by BART.

Hamilton claimed that his route would carry more people per day than would Ward's (185,000 vs. 140,000), and that it would have more than twice as many potential customers per mile (16,800 vs. 6,900); though shorter it would, he added, serve more jobs than Ward's (21,200 vs. 7,300).

Ward countered that his route would be available to more people (2.4 million vs. 1.7 million), be ready much sooner (5 years instead of 15), disrupt less property (by using existing railroad rights-of-way), and, of course, cover a much greater distance.

Bradley shifts

Bradley, who seemingly endorsed Ward's route at that

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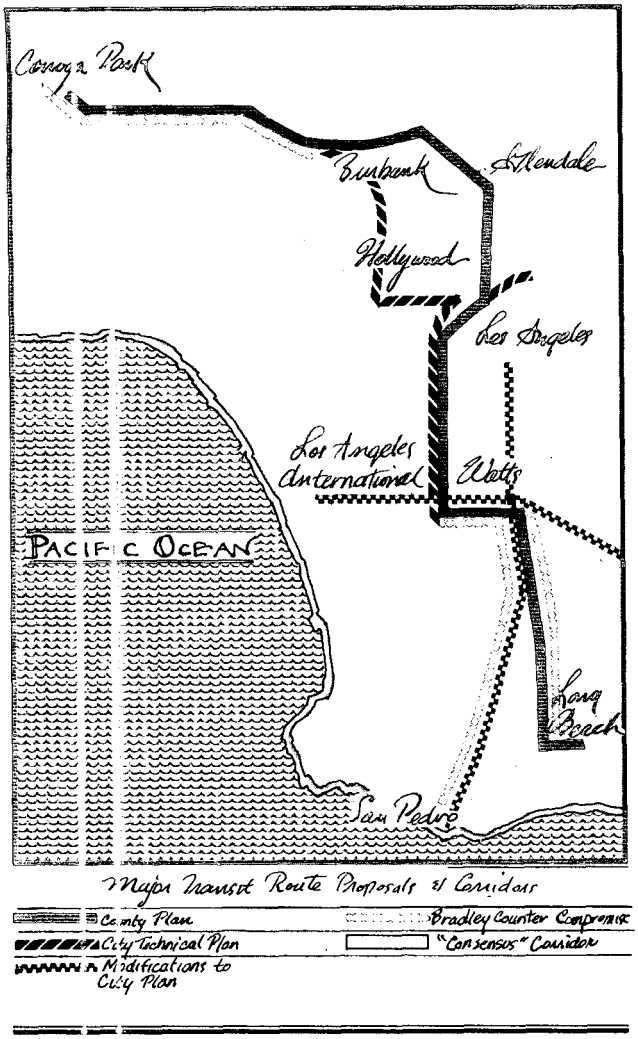

tunnel meeting last May, did some field-shifting on August 13th by issuing a statement supporting Hamilton's plan. He based his support on the claims that this plan would serve more people much earlier. Ward, according to the *Times*, was "stunned".

Bradley, normally a cautious man, has nonetheless gone farthest out on a limb on behalf of rapid transit; he, therefore, has the most to lose if the "consensus corridor" plan collapses. Ward picked this up when he responded that Bradley had "written off" the Valley, and was giving ammunition to Valley people seeking to secede from the city and from their own incorporated community. (Chief among these is state Senator Alan Robbins of North Hollywood.)

One group backing the Wilshire route is the Central City Association, once known as the Downtown Businessmen's Association. (This group's members include nearly all the prominent businessmen and land-owners in the city, and its policy-making arm is headed by Philip Hawley, president of Carter-Hawley-Hale department stores.) The Central City Association began the studies six years ago that recently culminated in the Community Redevelopment Agency, and the plan by which the property-tax base of companies within a 250-block area of downtown will be frozen at the current level; any future increase will be given to the redevelopment agency (and not to the county or state), to improve the area — a scheme the Mayor supports.

The companies within the affected area (including Atlantic Richfield, Occidental Insurance, Pacific Mutual and the Times-Mirror Corporation) will thus be paying only for their own area's improvement. The two heads of the redevelopment committee are Earl Clark, chairman of Occidental Life, and Franklin D. Murphy, chairman of Times-Mirror, publisher of the *Times* (which has given editorial backing to the most recent Bradley transit positions).

More proposals

Since the Bradley-Ward split, various compromises have been proposed. Ward himself has suggested that everybody rally around an eight-mile subway running downtown from La Brea. Financing would come from the sale of $50 million in bonds by both the city and county. Once this $100 million were realized, application could be made to the federal Department of Transportation, which would generate another $400 million, enabling a $500 million system to be built. (This eight-mile spur would be in addition to the original Ward plan, with its budgeted price tag of $1.1 billion.) Other county proposals involve various route alignments south of downtown.

Bradley has also proposed a compromise in which an above-ground line would extend from Universal Studios out into the Valley. But, about a week after Bradley came out for the city plan (or something more like the city's plan than the Ward plan), the directors of SCRTD officially approved a line running directly south to Long Beach from the downtown area.

Little of this is likely to impress Washington. "There is no formal reservation of money for any city," warned Jerry Premo, associate director of the Urban Mass Transit Administration, within the Department of Transportation. "The communities that pull themselves together are the ones that will get the limited amount of federal money."

La Brea beckons

The fine system of Big Red trolley cars, which ran throughout the region and could carry one from Hollywood to Long Beach in 35 minutes, was undone, it used to be said, by the combined forces of the automobile, tire, and gasoline lobbies. Today, the overlay of governmental agencies and restrictions, public resistance to tax increases in the face of continuing inflation, and the cost of getting rapid transit running at all almost seems too much to deal with. If this latest attempt to turn the first shovel of dirt on a rapid-transit system fails, it will have merely suffered the fate of the estimated hundred other studies and dozens of previous attempts.

It will be a minor miracle if any transit organism can survive the onslaughts of the beasts of Los Angeles' neo-Pleistocene Era, any more than their predecessors could resist the deceptive shimmer of La Brea's tar.

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BART PROGRESS REPORT

New leadership but same old problems

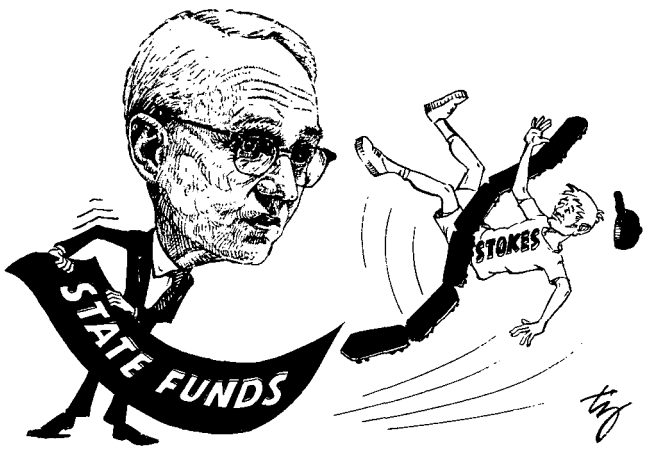
By HARRE DEMORO

More than a year has passed since B.R. Stokes, facing increasing pressure from Sacramento and his own board of directors, resigned as general manager of BART, the Bay Area Rapid Transit District. Many critics, including most Bay Area legislators and Legislative Analyst A. Alan Post, blamed BART's political and technical problems on the former newspaper reporter, who headed the transit agency for 10 years. Post insisted that Stokes had to go before state aid was made available to bail out the fiscally distressed transit network. The analyst and others said that only by removing Stokes could the trains be made to run properly and with economy. Stokes resigned, effective July 1, 1974.

Few commuters would argue with the statement that the trains still don't run any better today. Moreover, BART is in worse financial condition, Post said in a recent report. And there is evidence that the railroad is in poorer electrical and mechanical shape than it was in the spring of 1974, when the anti-Stokes crowd shouted the loudest.

A lot has happened in the last 18 months. And a lot has not.

In the spring of 1974, largely at the urging of the Legislature, voters were asked if they wanted to replace the appointed board of directors with one elected by them. That issue, as well as the effort to replace Stokes with a permanent general manager, resulted in countless political, financial and technical headaches. In June, the voters approved the idea of electing directors and, a few weeks later, Stokes was gone.



Harre Demoro is the author of BART at Midpoint, *two other transportation books and "What BART can teach Los Angeles" in the October 1973* Journal.

The lame-duck board of directors appointed Lawrence D. Dahms, a Stokes assistant, as acting general manager. At about the same time, a search was launched for a new general manager. What BART also needed was an operating expert, someone skilled in the problems of running and repairing trains, especially BART's trouble-plagued cars.

Dahms advertised for applications for such an expert, but never hired the person he was authorized to find. (Some say that he wanted to await the seating of the new board in December.) Consequently, at the very time when BART needed an assistant general manager for operations (as it prepared to begin operation through the tube under the bay to San Francisco) it had none. Also, applications for permanent general manager began arriving. But the lame-duck board decided to turn the applications over to its successor, rather than make a decision on the eve of its departure.

Cross-bay service

Service was inaugurated through the tube in September 1974 with greater passenger and technical success than anticipated. But the brightness of the opening soon was marred by recurring technical problems, which were made even worse by the need to employ many more cars than previously required. As more cars that ran poorly went in service, problems snowballed and maintenance efforts suffered.

One of Dahms' first headaches was a confrontation with Edward Gregerman, the feisty but usually effective person in charge of rail-car maintenance. Gregerman, with both aerospace and railway experience, grew up with the cars and the maintenance program. He probably knew better than anyone what the equipment's weakest spots were. As a result of the confrontation, only a day or two after Stokes' departure, Gregerman left, claiming that Dahms fired him.

The already overworked maintenance force, deluged by poorly running trains, was stunned at Gregerman's sudden exit. Then in December, as BART struggled with its new transbay service, Bill Presho resigned as master mechanic of the train-repair department. (Both Gregerman and Presho are now consultants designing rapid transit and commuter cars.)

The newly elected BART board of directors was unhappy with the applications for general manager. A new search was launched, but it soon became apparent that someone with a long and successful record in rapid transit was not going to be lured to BART. Such highly regarded rapid-transit managers as Louis Gambaccini of the Port of New York and New Jersey, Milton Pikarski in Chicago, among others, declined to let themselves be

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considered. This caused more delays in settling a major issue that had to be resolved before BART could be put on the right track. There had to be a general manager who was not only capable but also enough of an outsider to command respect and be able to attract an operating expert.

Safety problems

Dahms was an applicant for the top job. And he was having his problems. In January, a test train struck a maintenance vehicle that, testimony later indicated, was at the wrong location because of confusion in radio messages. There was the allegation, supported by the Alameda County coroner's office, that the maintenance worker who was killed had been drinking. The accident triggered a series of embarrassing and revealing public hearings. The California Public Utilities Commission, which already had imposed restrictions on the use of the automatic train-control system, became even more vocal in its criticisms and its doubts about whether the system could be made to run effectively without a major overhaul.

Then TRW, Inc., a consultant to BART, completed a report stating that the doors on the cars had serious safety defects. It even suggested putting fences at some stations so that riders would not fall 30 feet to the street below if a door opened on the wrong side of the train. There were other revelations: A passenger under remote circumstances could be electrocuted; the electric power-supply system was failing rapidly and sometimes with a loud explosion.

C. Keith Bernard, director of BART research and marketing, conceded that the accident and publicity about safety problems had scared away some riders (from a top of around 120,000 a day to fewer than 115,000). Dahms issued a strongly worded memo to passengers charging that news media had exaggerated safety problems, but he also suggested that riders not lean against train doors.

There were other events, too. The University of California's Lawrence Berkeley Laboratory helped install a computerized backup system expected to make the train-control system meet safety standards set by the PUC. But the research also uncovered a new problem: Because the trains can skid on wet rails, there is a possibility of rear-end collisions. Dr. D. Theodore Scalise, who heads the UC teams, says it may take months to rewire the automatic controls to provide a safe braking distance and adequate stopping rate. In addition, Legislative Analyst Post reported that the level of maintenance was poor and that fares would have to be raised to keep even the present limited service operating. The analyst held out no hope of extending service beyond 8 p.m., or to weekends.

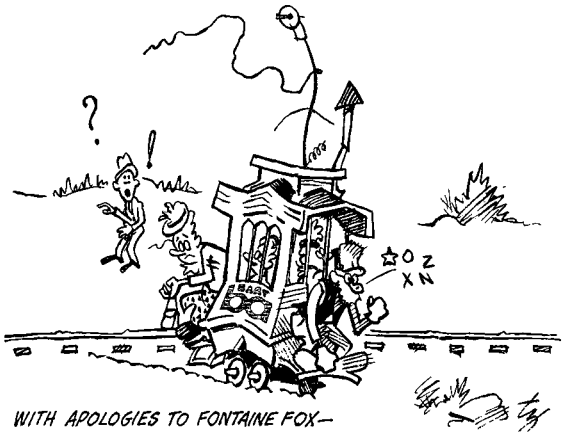
By March, BART directors were saying privately that Dahms would not be selected. Then in May, Frank C. Herringer, 32, administrator of the federal transit agency, was named general manager. Critics had assailed the elected board for paying Stokes $52,000. The elected board, though not unanimously, hired Herringer at a salary of $68,500 a year.

Breakdowns continue

On a foggy day in July, 30 trains were dispatched and 23 of them broke down. Typically, one-third of the 30 break down and have to be replaced each day — just as when Stokes was at the controls more than a year ago.

There are serious problems with the cars. The propulsion system remains a major concern, and some critics insist that the electric motors (there are four in each car) will have to be replaced on all 450 cars. Three cars are being run as rolling laboratories, carrying special instrumentation instead of passengers. William J. Rhine, BART's director of engineering, is hopeful that the cars will produce enough data to help technicians make the necessary technical changes.

With the backup control system in place, concern that the automatic controls could overlook a "dead" car ahead has lessened. The new system is still being "debugged" and that should increase safety. In the meantime, the central computer is being used to do something it was not designed to do: keep the trains spaced at intervals of approximately five minutes. With the backup fully functioning, two-minute intervals between trains will be possible and, in some circumstances, 90-second spacing.



Both PUC staff experts and UC technicians and scientists say that it will take two more years to get the trains and controls functioning properly.

Dahms has left BART to join a San Francisco consulting firm. It may be that his chief accomplishment was keeping BART functioning during a period of considerable political, fiscal and technical travail. His successor has yet to hire an operating expert and get the system running properly. Though patronage is up to around 120,000 again, fares will rise on November 3rd, but the directors have decided not to impose parking-lot fees at stations. Though Herringer is actively seeking an assistant general manager for operations, there are also indications he can't find one.

Rather than quarrel with Post, which is what Stokes did, Herringer says that he is coming to Sacramento to sit down with the analyst to work out a financing scheme.

The transit game

And what of B.R. Stokes? He quit to become executive director of the American Public Transit Association in Washington, D.C., the trade and lobbying group for more than 600 mass-transit systems. His salary is not known but it seems certain to be even more than Herringer is getting at BART.

Has Stokes' exit benefitted BART? That issue might best be debated later, since all available energy is needed to get the trains running properly. The courts will decide if their manufacturers were at fault, or whether engineering consultants erred, in providing BART with defective equipment.

If Herringer can get BART running well, the issues of the past may soon become mere events historians discuss. After all, getting a commuter to work and home again on time is the name of the transit game.

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THE FALL OF RISE

How a minority mastered a majority

By JACK MCCURDY

Earlier this year, a warning was sounded that trouble might be in store for the state commission seeking to map the first reforms for California's public junior and senior high schools in over half a century. "A very real danger lurks," commission chairman Leland Newcomer wrote then, "that too much compromise and conciliation will result in recommendations that are bland and Pablum-like." Now that the Commission for Reform of Intermediate and Secondary Education, or RISE has finished its work and the final report has circulated throughout the state, Newcomer said this: "My worst fears were not fulfilled, but I certainly think that the phenomenon happened. There are some recommendations that *are* bland and Pablum-like."

Other members of the commission think the worst *did* happen — that the report was a flop as far as proposing bold new ideas for reform is concerned. And no one — including Newcomer — is exactly brimming with confidence that the recommendations will do much to reform the sometimes chaotic conditions in California's secondary schools. One commissioner, Charles W. L. Hutchison, superintendent of the ABC Unified School District in Cerritos, summed up much of the feeling this way: "When I looked [back] at our charge to develop a [state school] system for now and the 21st Century, I felt we didn't produce a reform document . . . . I doubt if anyone is really satisfied."

State Superintendent of Public Instruction Wilson Riles, who created the commission last year and gave it the charge to act boldly and "dream the impossible dream", called its work a "monumental contribution". Later, however, Riles admitted that the report "wasn't as far out or revolutionary as one might expect."

Statement of dissent

The feeling of disappointment among commissioners was so strong after the work was finished that 24 of the 37 members (including Newcomer) signed a statement of dissent that, in effect, challenged the report's substance. The dissent, which was inserted in the document submitted to Riles, called the report overly broad, "including many proposals which are not real reforms but restatements of current policies and practices."

Two other dissenting statements were signed by 19 members each, which also represented majorities of the membership. One took exception to the report's implied support for allocating more public money to the state's schools without requiring any evidence that such funds improved student achievement. The other statement balked at a recommendation in the report giving the state Department of Education responsibility for evaluating local programs, citing "the frustrations and resentments" that grew out of the department's efforts at reviewing the Early Childhood Education program.

Some commissioners were dismayed that almost none of the current educational controversies that they consider to be of paramount importance were really addressed in the report. "We failed to come to grips with the major issues such as corporal punishment, [lowering] the compulsory attendance age, tenure, teacher credentialing, counseling and collective bargaining," one member commented. When the commission debated such issues, the result tended toward vague compromises rather than hard-and-fast recommendations.

Jargon, generalities, platitudes

Another aspect of the 87-page report is in some ways more important than these deficiencies. And that is the report's tone. It is filled with educational jargon, glittering generalities and platitudes. It is also loaded, as the main dissent statement suggests, with an abundance of resuscitated reforms from the 1960s. Some examples:

- *To be prepared for daily life in a modern world, learners must also gain the skills needed for physical conditioning, health, scientific and technological literacy, responsible citizenship and positive social interaction.*
- *The business of school is learning, and learning almost anything well requires planning, effort, self-discipline and motivation.*

The author writes on educational issues for the Los Angeles Times.

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The report says that "the number of learners in a learning situation should be limited so effective teaching and learning can take place," but makes no mention of what that number should be.

The report has its share of inconsistencies. For instance, it frequently alludes to turning out more independent-minded youngsters, but it smacks of indoctrination when occupational training is discussed: "Each learner should be assisted in formulating appropriate attitudes about the personal and social significance of one's own work and the world of work." And some statements border on the inane, such as: "Provisions should be made for awarding school credit and/or other recognition for participation in leisure-time activities that give learners skills and attitudes conducive to adult leisure-time enjoyment." Some commissioners said they feel that one of the strengths of the report is that it ventured to say that schools cannot do everything. But the foregoing statement strongly indicates that someone still thinks schools should try.

In such general pronouncements as these, the report is long on what schools should be doing, short on what they are doing wrong now and how they might improve.

Operational plan

Riles pointedly asked the commission not to get into the "how" of reforming schools. The details, he said, are to be worked out in an implementation plan now being prepared by the state Department of Education, which he heads as state superintendent, and will be ready by the end of the year. But that scheme will leave most of the critical decisions to Riles and his staff, since the RISE report is so ambiguous and gives so much latitude for determining how to go about putting the proposals into practice. Thus, the operational plan may well overshadow the work of the RISE project, which cost an estimated $152,000 in federal funds.

The report did get into the "how" when it seemed to meet the commissioners' fancy, however. In calling for students to be given a wider variety of choices in programs, it suggested as examples "schools within a school, work-study programs, regional occupational training programs, special-interest schools or centers and departmentalized traditional programs." On the other hand, in a section on giving parents a larger voice in school policy-making, a sentence on how contained in the final draft was cut out of the published report. It read: "Establishment of advisory councils at the school and/or district level is an obvious vehicle for involvement." Formation of advisory councils is a tame enough concept and is being used fairly widely in California by big-city districts, but it ran into some opposition and got killed.

Too many educators

Why did the report turn out to be so compromised? The consensus is that the commission's makeup was at fault. The group was not — as Riles had advertised it — a citizens' commission. It was composed mostly of educators; 20 of its 37 members were professional educators, three others were members of school boards, and one represented the PTA. The commission also included labor and business representatives, students and several private citizens. The watered-down compromises that embodied the recommendations, a number of commissioners feel, resulted from the overriding efforts of the educators on the group to protect their interests. Some blamed Riles for that because he appointed them. They speculate that he did not anticipate what would happen with that kind of membership or was not that concerned and would just as soon let his own department shape the real reforms.

Riles concedes that the composition of the commission contributed to the compromised nature of the report. But, he said, reforming secondary schools required a diverse group of people as well as representatives of all phases of secondary education. "To approach it without involving labor, business people as well as school people, would have meant getting absolutely nowhere," he said.

Major points

Riles, Newcomer and a number of other commissioners still think that the report contains significant ideas that will have an impact if enough local schools accept them. These are generally regarded as the major points:

- Students should be considered as "clients" served by schools and, thus, given a voice in selecting what to learn. Their choice should be expanded as they grow older and progress through school.
- Demonstrated proficiency in a subject, not an arbitrary amount of time spent in classrooms, should be the standard for earning credit.
- Since children learn from a variety of sources, school systems should reorganize to utilize the non-classroom world under a broader definition of education.
- New emphasis should be placed on "learning how to learn" — how to find information, critically evaluate it and put it to good use in a systematic manner.

Conventional wisdom

As the report itself points out, most of this is not new. "Almost every reform outlined in this report is now being practiced in some way and in some place in California," it said. Indeed, such notions have been emerging for a number of years into what could be considered as the reigning conventional wisdom in education. Still, Newcomer said, many school districts are far from the stage envisioned in these principles. A student "client" would be hard to find. Adoption of such practices would substantially change the face of secondary schools, Newcomer believes, and "the time is ripe" now, judging from the trouble many high schools are having in maintaining student interest.

Riles said that "the report has a lot of meat in it" and that "if the recommendations are implemented [by local

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districts] it will be a great step forward. I have some other ideas myself," Riles said. "Not so much that they are in a different direction but I think we can sharpen up things in the report."

The commission's staff director, Ernie Hickson, agreed. "The thing that the RISE report does is give us a single document that all parties in education can refer to," he said. "That is its greatest purpose. Certainly, many of the ideas are not new . . . . But it should provide a common springboard to jump off from."

Teacher resistance

Newcomer said that one big problem confronting the future of the report is that "some commissioners are going to try to discredit it." He referred to the teacher representatives, particularly Cathy Golliher, who was the only member not to sign the report. Her organization, the United Teachers of Los Angeles, the biggest teacher organization in the state, has also come out against it.

Golliher said that the report does not represent "true reform" nor deal with many questions involving the plight of teachers. The other teacher member, Larry Stevens of Stockton, a representative of the California Federation of Teachers, wrote a personal dissent in which he expressed concerns similar to Golliher's.

What most disturbed the 24 dissenters who signed the

Summary of the recommendations of the California Commission for Reform of Intermediate and Secondary Education.

Here is a summary of the recommendations of the California Commission for Reform of Intermediate and Secondary Education.

New learner

Each student should be recognized and accepted as the "primary client to be served by the school."

As students grow older, they should be given greater responsibility for deciding "what, where, when and how to learn."

Students and parents should be involved in formulating school rules and should also assume responsibilities, including showing respect for the rights of others and making a maximum personal effort in school.

The strengths and weaknesses of each student should be systematically assessed and a learning program prescribed and selected by the student with "specific learning outcomes" as the goals.

When students meet the learning objectives by demonstrating proficiency, the program should be considered completed and credit awarded.

New environment

A wide variety of choices in programs and curricula should be offered, including opportunities to learn independently in groups and at locations away from schools.

Instruction should not be categorized by age, grade or ability levels.

Students should be given greater opportunities to learn in community settings and earn credit for study, observation, service, participation and work relating to educational objectives.

All educational services, including instruction, counseling and use of facilities, should be available at flexible times, including the use of "furloughs" for students who want to leave school for longer durations.

New emphases

Each student should demonstrate proficiency in English and computational skills, physical conditioning, scientific and technological literacy, American government and institutions and citizenship responsibilities.

The state should determine minimum levels of proficiency for high school graduation in reading, writing and computation. Local school districts should determine the levels in other learning areas.

Instruction should help students develop and clarify their social, political, moral and cultural values, understand the nature of a global society, and learn about the economic processes of society, including how to be wise consumers.

Schools should provide "planned experiences for learners to be in regular contact with" students of other racial, ethnic, socio-economic or cultural backgrounds.

Career planning and occupational opportunities should be emphasized, and each student should be able to "gain an entry-level, marketable job skill" in high school.

New educators

Administrators should promote involvement of parents and others in the community in school decision-making.

Teachers should act primarily as guides, managers and facilitators of learning, and schools should seek people from all walks of life to assist teachers.

Counselors should serve as coordinators, planners, managers and evaluators of instruction.

A study should be made of instituting periodic reviews of teaching credentials "as a means of assuring professional competency."

Students, teachers and private citizens should be involved in the selection of teachers and other staff members at local schools and also in development of teaching standards.

Teachers and other staff members should be trained in the heritage and values of various cultural groups in society.

Intensive training should be provided in the techniques of evaluating instruction, and administrators should periodically return to teaching.

New resources

The present system of allocating state aid to schools based on average daily attendance should be changed to one in which aid is apportioned on the basis of the number of students enrolled.

A method should be developed to provide tax incentives or financial assistance to businesses, individuals and others willing to help devise joint educational programs.

The state should evaluate junior and senior high schools.

Local school districts should give teachers, parents, students and other private citizens "an active role" in developing policies.

Admission to college and university should be based also on a student's non-academic experiences.

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main statement may have been their realization that RISE has preempted the reform field for some time. Since no other group is likely to attempt a similar reform effort, that leaves the field to someone like Governor Edmund G. Brown Jr., who has announced his own school-reform plans. That was probably the real message behind their dissent, which was sometimes as vague as the report.

The dissenting statement was co-authored by Ramon Cortines, superintendent of the Pasadena schools; Conrad Briner, professor at Claremont Graduate School; John Pincus, an education specialist at the Rand Corporation in Santa Monica, and Robert Stout, dean of the School of Education at California State University, Fullerton. Ironically, these four educators seemed to generate the most unconventional ideas -- what there were of them -- during the commission's existence. The non-educator members seemed to defer to the "expertise" of the educators.

The statement signed by the 24 commissioners says that the report should have concentrated on ways of "breaking down the barriers which separate the schools and the community" and the barriers within schools that often divide administrators, teachers, students and parents into "hostile" camps. It calls for a bigger say by students and parents in deciding what is to be taught in schools. (The report only touches upon this point and defined "involvement" very broadly.) The dissenting statement also envisions more learning taking place away from schools but in a way that would entail fewer controls by the school than the report mentions.

Department's hand

There were other problems with the commission as well. Some commissioners feel that the department personnel, who served as staff to the commission and actually wrote the report, exerted undue influence to strain controversy from the report. The feeling erupted once in charges by Cortines that staff member Rex Fortune had tried to intimidate him when Cortines urged approval of a recommendation to abolish tenure for teachers (on condition that their academic freedom and due-process rights were protected). Fortune has warned that such a proposal might hurt the report's chances of being implemented by local districts, but he denied any attempt at intimidation. (One staff member said that the charges are ridiculous and that the commissioners themselves were the biggest obstacles to a more challenging report. The staff went out of its way to propose provocative ideas but was rebuffed, the member said.)

The commission also engaged in a lengthy debate over a recommendation that California's compulsory school-attendance age be lowered from 18 years to 14. All the while, it was learned later, a new law lowering the age to 16 under certain conditions was, unknown to the commission, being phased into operation by the department. It was also discovered on completion of the commission's business that little had been said about junior high schools. A section was composed as an after-thought and, unlike the rest of the report, it contains no specific recommendations for change.

Interest blocs

Several commissioners blame these last two points on "poor staff work", but the blame seems rightly to belong with the lack of vision on the part of the individual commissioners. They were not, as one member put it, "chosen with a task in mind but chosen to be representative of everyone." The "safe" nature of the group was illustrated by its rule requiring a three-fourths majority vote to adopt any part of the report. The rule, in fact, set the stage for the curious "dissent" by a majority of members from their own report.

"That rule was really undemocratic and made it difficult to get controversial issues on the table," one member said. "The teachers lined up with the counseling and voc-ed people, and they had enough votes to kill anything. It was the special-interest blocs that killed us." For example, clear majorities appeared to support the two most controversial proposals to come before the body — tenure and lowering compulsory attendance age. Yet, because both failed to receive a three-fourths majority vote, they did not get into the report.

After the vote on the tenure proposal, Pincus (who is also a top adviser to Governor Brown) warned his colleagues: "The thing that disturbs me is I'm afraid the [action] of the commission will reinforce the impression in the community that people responsible for education are more concerned about protecting their privilege than providing the most effective education."

That comment might have been better applied to the report as a whole.

— Omission —

In "The 1974 rating game" in last month's Journal, *the description of votes for the State Building and Construction Trades (SBCT) scorecard was omitted. The SBCT percentages were based on 4 Senate and 8 Assembly votes in such areas as insurance, wages, unemployment and subcontracts. Also, the Legislative Birdwatchers (LB) scorecard was based on 13 Senate and 13 Assembly votes on environmental issues.*

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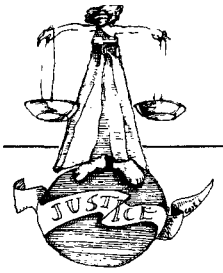
SIGNIFICANT COURT ACTIONS



Life's at a premium

Insurance companies in California will likely return initial premium payments with greater dispatch henceforth in rejecting applications for life-insurance coverage. In *Smith* v. *Westland Life Insurance Co.*, the state Supreme Court ruled, 4-3, that a temporary contract is created when a company receives an application and initial payment. This contract remains in force until the individual is notified that the application is rejected and receives a refund of the premium payment.

Justice Raymond L. Sullivan wrote the majority opinion in favor of the estate of Solomon Smith of San Francisco and was joined by Chief Justice Donald Wright and Justices Stanley Mosk and Mathew Tobriner.

Smith had filed an application, and the company attempted to get him to agree on an amended policy based on his supposedly hazardous employment as a railroad laborer. A company salesman eventually rejected the application and promised a refund. The next day, Smith died in an auto accident. The refund check was mailed five days later. The court ruled that an ordinary person is justified in expecting immediate coverage upon payment of a premium, and the return of the premium is necessary to terminate this expectation.

A dissenting opinion was filed by Justice William P. Clark, joined by Justices Marshall McComb and Frank Richardson. They pointed out that Smith was notified that his application had been rejected and that the refund was promised. In addition, Smith paid only one month's premium but died after the month ended. The dissent concluded that these circumstances prevented any reasonable expectation of coverage.

Serving at the pleasure of . . .

In a 5-2 decision, the court ruled in favor of Governor Brown's right to remove gubernatorial appointees from regional coastal commissions at his pleasure. The court found that the Coastal Zone Conservation Act of 1972 does not establish fixed terms for public members, either expressly or by implication.

In *Brown* v. *Superior Court of Mendocino County*, the Governor was challenging a lower-court decision that would have prevented his removing John Mayfield from the North Coast Regional Commission. Mayfield had been appointed in 1972 by former Governor Reagan. Brown had criticized the commissioner during the gubernatorial campaign for activities on behalf of Republican Houston I. Flournoy. The majority opinion was written by Tobriner, concurred in by Wright, Mosk, Sullivan and Tobriner. They said that, whenever a term is not fixed by law, that office is held at the pleasure of the appointing authority.

Justices Clark and McComb, in dissenting, said that it was the intent of the act to establish a nonpolitical commission of limited duration and that the commissioners should therefore serve for that entire period. The majority opinion, they said, created potential mischief by politicizing an essentially nonpolitical body.

Dead heat

Los Angeles radio station KHJ was conducting a contest involving the location of "The Real Don Steele" traveling on the freeway system of Southern California. Two teen-agers were attempting to follow the disc jockey to a contest stop. One of them forced a car off the highway, and the driver was killed in the subsequent crash. In *Weirum* v. *RKO General*, the wife and children of the driver sued the radio station.

In a unanimous decision written by Mosk, the Supreme Court upheld a verdict against the station on the grounds that the station owed a duty of due care to the deceased driver arising out of its broadcast of the giveaway contest. The trial record showed that the accident was foreseeable because youthful listeners would be racing to arrive first at a contest.

NEWSMAKERS

McCarthy's musical chairs

Assembly Speaker **Leo T. McCarthy** attempted to solidify his hold on the state's second-most-powerful office by appointing Republicans and some of his former Democratic opponents to key committee posts. **Charles Warren**, who failed in an attempt to oust McCarthy, was named chairman of the new Resources, Land Use and Energy Committee — in effect, succeeding the late **Edwin Z'berg**. Another McCarthy opponent, **Jack Fenton**, was dumped as chairman of the Labor Relations Committee in favor of **Bill Lockyer**, who gave up chairmanship of the Human Relations Committee to Republican **Dixon Arnett**. The other GOP chairman is **Ernest Mobley**, who takes over the reconstituted Water Committee. Democratic Caucus Chairman **Julian Dixon** abandoned the chairmanship of the Public Employees and Retirement Committee to former chairman **Wadie P. Deddeh**. And **Bob Wilson**, who resigned as head of the Joint Audit Committee, was replaced by **Mike Cullen**. McCarthy also won some favor by expanding the Ways and Means Committee by adding Republican **Bruce Nestande** and Democrats **Victor Calvo**, Dixon, **Eugene Gualco**, **John Knox** and **John Vasconcellos** to its membership.

State Senator **Howard Way**, 62, a former president pro tempore of the upper house and its second-ranking Republican in seniority, announced that he will not seek reelection next year from his San Joaquin Valley district. Mobley is expected to seek the seat. In 1969, Way led a revolt of so-called Young Turks against the Senate's "old guard" leadership. He has generally remained out of the limelight since his ouster the next year . . . . One of the former members of that Senate "old guard", **Richard J. Dolwig**, was convicted last month of eight counts of fraud, racketeering activity and conspiracy in a complex real-estate operation.

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Brown's first legislative record

By ED SALZMAN

If a governor fails to take a vigorous stand on virtually every important bill before the Legislature, he can be charged with lack of leadership. But if he takes a personal role in solving problems before the Legislature, he stands accused of being a dictator. At various times this year, Governor Brown was accused by his critics of both being a dictator and failing to exercise leadership. It is true that, in terms of quantity, Brown did not risk defeat in the Legislature many times during his first legislative session. But it is also true that on occasion he used the muscle of his office to impose his will on the Legislature.

Did Brown succeed in walking the fine line between dictatorship and leadership? An evaluation of Brown's first legislative year depends more on one's philsophical and personal feelings toward Brown than on an objective study of the record. If you don't like Brown, you can find plenty to scream about; if you do like Brown, there is plenty there to praise. A case can be made for Brown's being a good leader, an average leader, a poor leader, or even a dictator. But on one count there can hardly be disagreement: On those issues that the Governor chose to put his administration on the line, he posted a remarkable record of success.

Promise and performance

The Governor outlined his program in his brief inaugural address, and he added few legislative goals to those included in the speech. Here are the goals established by Brown, and what happened:

Avoid a general tax increase. Brown inherited a large surplus from Ronald Reagan, and a general tax increase was not needed. However, Brown did sign a couple of bills that provided additional state income through the closing of supposed loopholes.

Eliminate the oil-depletion allowance. This measure was enacted early in the session following similar action at the federal level.

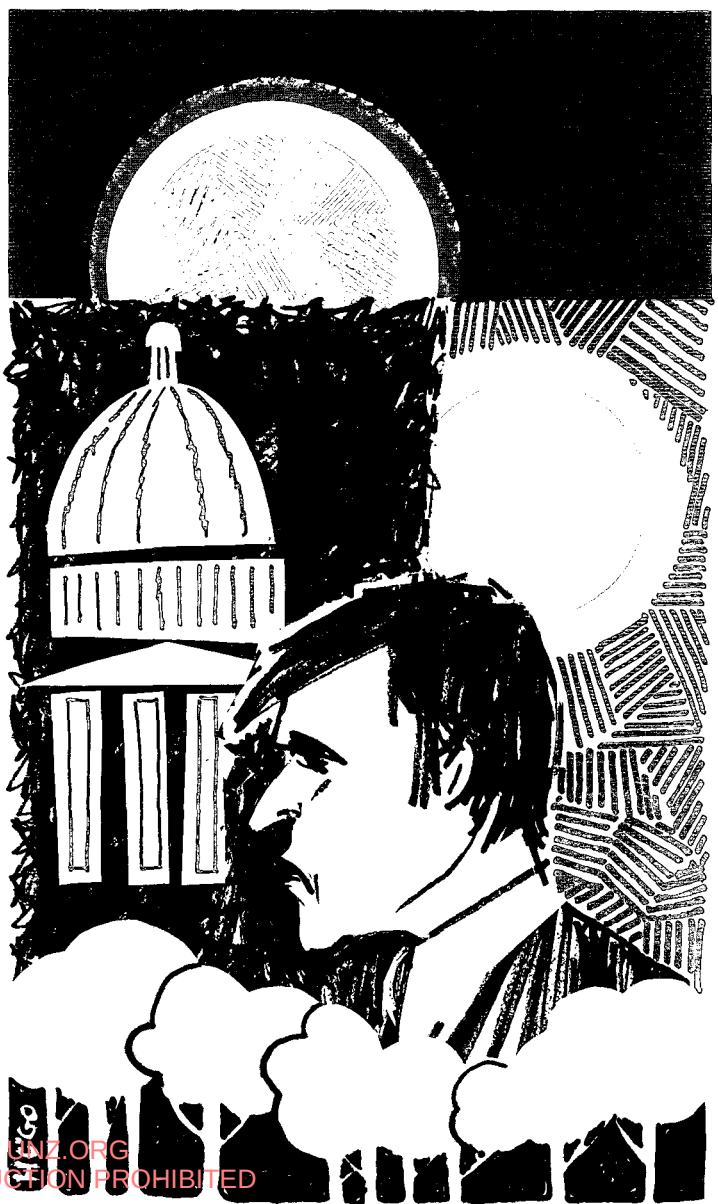
Increase the state income tax on so-called preferential or tax-shelter earnings. This bill was enacted in September.

Place on the ballot proposed constitutional amendments eliminating the home-office deduction for insurance companies and authorizing increases in bank, corporation and insurance taxes by a simple majority instead of a two-thirds vote. As a result of legislative action, both of these proposals will be on the ballot next year.

Enact unemployment insurance for farm workers. This was easy to attain, since the bill had been passed in previous sessions and vetoed by Reagan; Brown signed it.

Establish a secret-ballot election system for farm workers. Brown personally fashioned the compromise that resulted in landmark legislation in this field. It was by far the biggest accomplishment of the first quarter of his term.

Enact a collective-bargaining system for public employees. The Governor at one point worked out a compromise, but the Legislature rebelled and refused to accept it. Instead, lawmakers sent Brown a bill that would grant collective bargainings only to public-school employees. The Governor had indicated his disapproval of such partial solutions, but he did sign the bill into law September 22nd without comment.



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Other issues brought the administration into the legislative process, too. Donald Burns, secretary of business and transportation, played an important role in developing the major housing-finance bill. The Governor thrust himself forcefully into the school-finance controversy, eventually agreeing to an allocation of $88 million in supplemental education funds and then seeing the Legislature send him a bill containing $115 million. Brown cut the appropriation back to $88 million and then had to use the power of his office to prevent the Assembly from going along with a Senate override of the cutback. The administration played around with the tricky medical malpractice issue, but the Governor never became identified with a specific proposal to solve the problem.

Brown's most clear-cut defeat of the session came on his plan to form a fifth state agency consisting basically of the Air Resources Board, Solid Waste Management Board and the Water Resources Control Board, under the leadership of Tom Quinn, who had served as the Governor's campaign manager. The Senate defeated the reorganization plan, and some of the opposition leaders were Democrats who had privately indicated their personal distaste for Brown.

Veto prospects

With the exception of these issues, the Governor generally let the lawmakers do their own thing — until the bills landed on his desk. Reagan had a reputation for being rather rough with the veto, but he was a conservative Republican deciding the fate of bills enacted by a liberal Democratic Legislature. In theory, there should be few vetoes now that there is no great philosophical difference between the Governor and the Legislature. But Brown has given indications that he will be vetoing bills at an even more rapid clip than Reagan had done. Brown examines measures in more detail than any other modern governor, and he doesn't believe in signing bills he finds even mildly offensive just to keep on the right side of legislators. He could well veto so many bills this year that he will start the next session in January, facing a highly hostile Legislature.

Brown is not especially known for massaging the egos of his staff, political allies and legislators. He has not worked at developing good will among lawmakers. Indeed, he may not need to do so if he maintains his current high status with the populace. Legislators recognize that it is not good politics to attack a governor with high standings in the polls. Few legislators know Brown well or express any personal warmth for him. There are lawmakers who find his policies, especially his fiscal conservatism, difficult to challenge but others feel that the Governor has short-changed those who get the most benefit from funds spent for health, education and welfare.

Whiff of grapeshot

What this means is that the Governor did not enjoy a honeymoon in his first legislative session. It was more like the aftermath of a shotgun wedding. The question now is whether the couple will settle down to a life of mutual accommodation or face years of bitter conflict. Much will depend on the fate of Leo McCarthy as speaker of the Assembly. McCarthy is Brown's most important ally in the Legislature, but there have been recurring efforts to remove him from the state's second-most-powerful position. Should McCarthy be bounced, the Governor would almost immediately come into conflict with the reconstituted Assembly leadership.

(Much has been written about Brown's unorthodox governorship, but old-time legislators find McCarthy's running of the Assembly equally puzzling. McCarthy shows no signs of seeking higher office. At some times, he acts like a dictator; at other times, he leans over backwards to be democratic. And he rarely bends the rules to convenience members.)

The Senate is a house without strong leadership, and Brown has not enjoyed the kind of partnership there that he has had with McCarthy. On the other hand, the potential for a sudden turn-around is not as great in the Senate as in the Assembly.

Principles, politics, and pay

One of the trademarks of Jerry Brown's administration has been a persistent call for austerity on the part of public officials. Under this philosophy, Brown would be sure to veto the 10 percent pay raise legislators voted themselves at the conclusion of the 1975 session last month. But another trademark has been a general inconsistency that has kept Californians on their toes wondering what their Governor would do next. This would make it very possible that Brown would approve the increase (from $21,120 to $23,232 per year, effective in December 1976).

As time grew short for Brown to decide what to do with the measure, there were indications that he might take a middle road — allow the bill to become law without his signature. To veto it would undoubtedly improve Brown's popularity with the voters — but at the expense of having declared war on the Legislature, a war that likely would last until the day he left office. Yet, signing it would run contrary to Brown's austerity philosophy.

Although the measure involves relatively little money (about $250,000 a year), legislators feel extremely sensitive toward it because it is the kind of issue that excites the news media and can be used against them in political campaigns. That explains why most of the Democrats who voted against the pay raise are freshmen facing difficult reelection battles next year. –*E.S.*

Aside from McCarthy, Brown has few staunch supporters in the Legislature. He has worked closely with McCarthy's majority leader, Howard Berman, on key issues, and at times he has worked with key Democrats in the Senate — President pro Tempore James Mills, Majority Leader George Moscone, Rules Committee members Nicholas Petris and Joseph Kennick, and (more for personal than political reasons) George Zenovich. The day-to-day liaison work has been handled by aides Marc Poché and Paul Halvonic, a pair of lawyers; on special issues Gray Davis, Brown's executive assistant, has stepped in.

Changes in operation

The operation of the Governor's office has changed somewhat since the early months, when there were cabinet meetings and dialogues on issues at all hours of the day and night. One of the problems faced by the new administration was the fact that for the first time the

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Legislature had convened in December and could start conducting hearings on bills in January. This meant that the new administration was expected to start taking positions on legislation virtually the day after inauguration. While the Governor was attempting to put his house in order, some lawmakers expressed unhappiness that the administration was reluctant to display its leadership by taking positions on bills.

As the job of organizing the executive branch diminished (although there are still numerous appointments to be made), Brown found his time more and more occupied with the daily decisions on the stack of bills sent to him by the Legislature. But he still works 12-15 hours a day, six days a week. He tries to take Sundays off, but doesn't often succeed.

Less is more

He has also been besieged by Eastern writers, who find him fascinating because he is a different breed of politician and is being viewed as a longshot presidential candidate. The most detailed (and perhaps most critical) comprehensive analysis of Brown was written by Richard Reeves for the *New York Times,* and some California newspapers carried abbreviated versions of the article. These did not include what may have been the most significant (although far from most lively) section of the Reeves article — a claim that the best guide to understanding Brown is a book by British socialist E.F. Schumacher entitled *Small Is Beautiful.* An excerpt:

> *The substance of man cannot be measured by Gross National Product. . . . For the modern economist, this is very difficult to understand. He is used to measuring the standard of living by the amount of annual consumption, assuming all the time that a man who consumes more is better off than the man who consumes less. A Buddhist economist would consider this approach excessively irrational. Since consumption is merely a means of human well-being, the aim should be to obtain the maximum of well-being with the minimum of consumption. Thus, if the purpose of clothing is a certain amount of temperature comfort and an attractive appearance, the task is to attain this purpose with the smallest possible effort – that is with the smallest annual destruction of cloth and with the help of designs that involve the smallest possible input of toil. . . . The ownership and consumption of goods is a means to an end, and Buddhist economics is the systematic study of how to attain given ends with the minimum means.*

It is the Buddhist economic philosophy that Brown has embraced, as indicated by his general fiscal conservatism, his claim that state-employee pay increases should benefit primarily those receiving the lowest wages, and his complaint that school administrators are paid too much money (at least by comparison to teachers).

Educational reform

Brown's prime goal is to lead the public into a change in societal attitudes and values, especially with regard to materialism. His big target in the 1976 session will be educational reform, whatever that may mean to him. The Reagan administration also thought that major changes were in order for the public schools, and it started a reform study that produced nothing. Now, Brown is working on the same project, and from his preliminary statements on the subject it is obvious that his proposals will infuriate almost all elements of the education establishment. For one thing, he has rejected the claim of those who feel that it will take a small fortune for the state to meet the mandate of the *Serrano* decision to equalize educational funding in the state. An even more fundamental problem is what to do to reverse an apparent trend toward poorer educational results as measured by reading and mathematics test scores.

No illusions

The Brown administration is now working on its 1976 legislative agenda, and school reform stands at the top. Another possibility: judicial reform, starting with a new system for confirmation of gubernatorial nominees for the supreme and appellate courts. The 1975 agenda was not only short but also included some easy pickings that would have been approved even without Brown's support. A successful encore will be much more challenging.

Brown may be branded as a loner with neither compassion nor grace, as Reeves concluded, but no one should under-estimate his political sagacity or his ability to make utterances that match the public mood. As long as Brown keeps his standing in the polls, he will retain the respect of the Legislature (which respects political success above all else).

The Brown administration operates under no illusions about its present and future relationship with the Legislature. Brown should have learned from the bruising conflict between his father and then-Speaker Jesse Unruh. He is aware of the inherent rivalry between the two branches of government and the tension that this produces. Under these conditions, as Gray Davis put it, "our relationship with the Legislature is as good as can be expected."

Renault—McClatchy Newspapers

'You never let ME cook anything anymore!'

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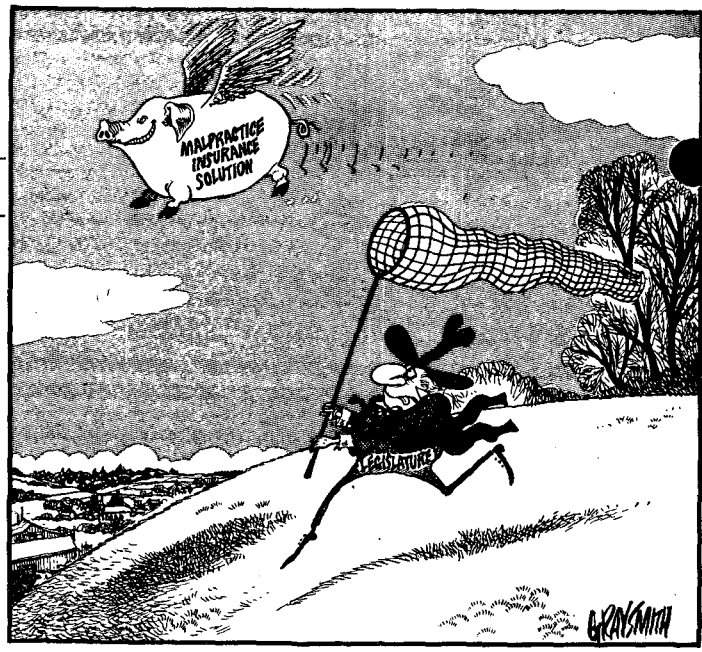
Graysmith — San Francisco Chronicle



THE MALPRACTICE BILL

Neither a placebo nor a panacea

By BRUCE KEPPEL

Doctor Legislature snapped shut the black satchel and headed for the folks down home last month after having administered a dose of medicine to the malpractice "patients" in California. It was a bitter draft, all agreed, and its effectiveness was untested, but it surely fell somewhere between placebo and panacea.

The "patients" in this case are physicians, lawyers and the physically aggrieved as well as the insurance companies that, for an impressively rising sum, protect the doctors against malpractice claims. The prescription measured out didn't even please the legislators who put it together, and specifically not the author of Assembly Bill 1XX, Barry Keene. Observed the *Sacramento Bee,* in editorializing on behalf of the measure: "Keene's bill may not be ordained in heaven as the perfect answer to the malpractice problem, but it is certainly a step in the right direction in solving a crisis which the lawyers, the doctors and the insurance companies have allowed to escalate out of control."

Formidable task

Devising a legislative solution was a formidable task under the best of circumstances, since the Legislature is, as legislatures are, dominated by attorneys. (And with the strike by physicians in May and the threat of another in September if reform was not forthcoming, circumstances could hardly have been the best.) While the legal profession was exceedingly well represented, moreover, there is just one physician among the 120 lawmakers — Assemblyman Robert McLennan, who fought against committing the Senate-passed version of the legislation to a conference committee to consider the hundred-odd changes made in the upper house.

The Senate Committee on Insurance and Financial Institutions, which made the changes, tended to offset the lawyer-dominated Assembly Judiciary Committee, which did most of the work on the bill in the lower house. (There are five attorneys on the nine-member I&FI Committee in the Senate, while the Assembly Judiciary Committee counts nine attorneys among its 11 members. Had AB 1XX been sent to the Senate Judiciary Committee, instead of I&FI, its fate may have been different, since all but one of its 11 members are attorneys.) The result of Senate consideration was to tighten Keene's bill in a number of ways that the legal profession and Keene (an attorney) found to be as harmful as the physicians found them therapeutic. Among these:

Board of Medical Examiners. The Assembly placed a majority of non-medical members on this doctor-dominated board, which licenses and is supposed to discipline physicians; the Senate allowed an increased number of public members but retained a majority of physicians.

Main provisions of the malpractice bill

The principal provisions of AB 1xx can be grouped by the interests whose practice they most affect — physicians, attorneys, and the insurance industry.

Physicians

Requires doctors to keep up in their specialties through guidelines to be submitted to the Legislature next year by the Board of Medical Examiners.
Reconstitutes the Board of Medical Examiners, breaking it into three divisions (licensing and continuing education; allied professions; and medical quality) and increasing its membership to 19, seven of whom are non-medical. Five of the remaining 12 physicians must come from teaching hospitals. (The present seven-member board has one public member.)
Requires reports of malpractice awards and any hospital disciplinary action.
Broadens board's latitude in disciplining doctors.
Protects doctors who report what they "reasonably believe" to be their colleagues' incompetent conduct.
Shifts burden of proof to a decertificated doctor that his or her return to practice will not harm the public.

Attorneys and plaintiffs

Creates scale of "contingency fees" for attorneys based on the amount of the award, sliding to 10 percent of any sum exceeding $250,000.
Requires giving 90 days' notice of intent to sue, and trims the statute of limitations from four years to three (and, in the case of children, the statute would begin to count from age 8 instead of 18).
Limits the award for non-medical damages ("pain and suffering") to $250,000.
Authorizes periodic payments of awards, instead of lump sums, and restricts what can be left to dependent survivors to the portion representing future-earnings compensation.

Insurance companies

Enables the state insurance commissioner to review any premium increases exceeding 10 percent and to rescind them if they are deemed unwarranted.
Requires insurers to open their books to state inspectors.
Prohibits companies from denying malpractice coverage to physicians who try to arbitrate a settlement out of court.

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Non-medical awards. The Assembly version continued to leave open the amount of money that could be awarded in a medical malpractice case for non-medical damages, often referred to as "pain and suffering"; the Senate limited such awards to $250,000.

Attorneys' fees. The Assembly version's sliding scale of an attorney's share of an award bottomed out at 15 percent of any sum over $200,000, much less than present practice; the Senate trimmed this to 10 percent.

Statute of limitations. The Assembly version continued the present limitation on how long after an injury a malpractice suit could be filed (four years for adults and four years beyond the age of 18 for minors); the Senate cut this back (to three years for adults and three years beyond age 8 in the case of children).

Senate prevails

So there was pressure in the session's last week to reject the Senate's amended version of AB 1XX so that it could be sent to a conference committee for further tinkering. Dr. McLennan, in arguing against such reconsideration, warned that such a move would throw the measure into the hands of a lawyer-dominated group that could destroy the fragile political balance of interests. "If you vote for sending this bill to conference committee," McLennan told his Assembly colleagues, "you are going to be voting against malpractice reform."

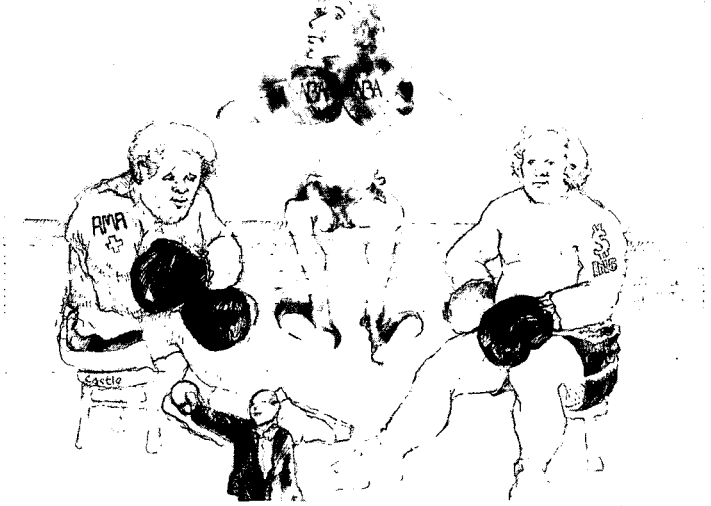
In the end, this view prevailed and the Assembly accepted the Senate version by a 57-20 vote, sending the bill to Governor Brown. Assembly Speaker Leo McCarthy, an attorney who had gone along with the effort to reconsider the bill — normal procedure when an author requests it, as had Assemblyman Keene — was philosophical. "The votes were not there," he said. "You win some, you lose some."

Keene said later, however, that he was "generally satisfied" with the bill that went to Brown. To him, the "most substantial issues" in it were the "least visible" to the would-be reformers — namely the reconstitution of the Board of Medical Examiners and its new authority to see that physicians keep up in their specialties. "There may not be a majority of public members on the board," Keene said, "but there are more than on any other professional board."

Winners and losers

As AB 1XX went downstairs to the Governor's office, it was the sort of compromise of complexities and of powerful special interests that left no clearly discernible winners or losers; everyone's ox got somewhat gored [see box].

The 56 pages of provisions — some of which will be clarified in follow-up legislation (SB 34, Behr), while others will face likely tests in court — will affect malpractice-insurance premiums only indirectly. If the net effect is to improve the quality of health care and expedite the handling of malpractice cases while limiting the magnitude of the awards, the insurers' risk should diminish; and if risk diminishes, premiums should cost less. But the legislation's only direct effect on premiums would be through a provision empowering the state insurance commissioner to review, and even roll back, any premium increases exceeding 10 percent. (The handful of insurance companies that still issue malpractice policies testified that their coverage was losing them money because of an increasing number of multi-million-dollar settlements. This view was supported after passage by a study made by the Legislature's auditor general. "The medical profession in California over the past 15 years,"



the study concluded, "has paid an inadequate amount for its . . . coverage.")

It was the high cost of malpractice insurance for certain categories of physician that brought about the doctors' strike last May. For example, some 9,000 physicians in seven southern counties reportedly face a 486 percent increase in their malpractice premiums next January. Whether AB 1XX, which will take effect 91 days after adjournment, will bring these practitioners substantial relief is, at this point, unknown.

What seems sure to some doctors, and particularly to those beginning a practice, is that the cost now is excessive and threatens to be prohibitive. A group called Women for Malpractice Reform brought together a handful of young physicians who told the press in Los Angeles that they may be forced out of practice — at least of their high-risk specialties — by the cost of malpractice insurance. Said one of them, A. Zorel Paritzky, a 33-year-old Van Nuys cardiologist, "Paying $20,000 to $30,000 a year in premiums would mean working two to three months of the year, or 15 percent to 25 percent of my time, solely to pay an insurance premium." Richard Masserman, a 38-year-old orthopedic surgeon, would find himself in a far tighter bind:

I have spent 18 years since high school training for the practice of medicine .... This education has cost $25,000 in the form of a repayable loan, and to start my private practice another loan for $85,000 was needed for necessary sophisticated medical equipment. Now, after 3½ months in practice and after spending half my life training for my profession, I am told I have to pay $47,846 in malpractice insurance premiums for $5 million coverage. There is no possibility that I can pay this figure.

None of these physicians is satisfied with AB 1XX, and all expressed hope that Governor Brown would veto it and set the Legislature back to work on a new bill. The California Medical Association, however, supported it as amended. On the other hand, the 5,100-member California Trial Lawyers Association revealed plans to challenge the legislation as unconstitutional.

So the malpractice medicine finally prescribed by the Legislature, in the last of the three special sessions it labored through concurrently with the regular session just adjourned, turns out to be a disputed remedy. That was almost inevitable. While the distress is not entirely removed, there should be, at least, some symptomatic relief for some of us. The question is, for whom?

Earlier malpractice articles

The *Journal's* previous coverage of the medical malpractice issue can be found in "Surgeon's sickness: medical malpractice," October 1974, and "Curing malpractice," June 1975.

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THOSE GAMBLERS' DOLLARS *or*

Why California hasn't gone to the dogs

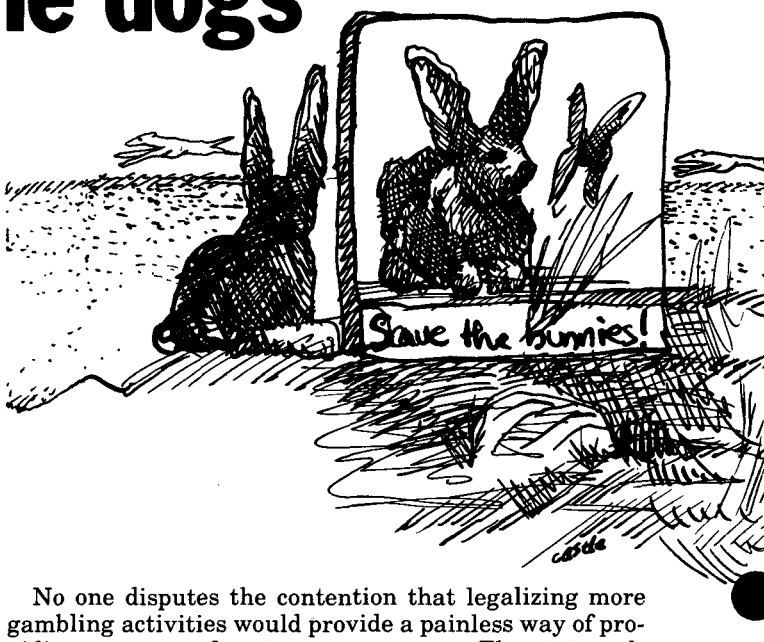
By ELIZABETH JASON KIBBEY

California legislators have repeatedly rejected a relatively easy way to increase state revenues — despite these times of economic difficulty. Legalizing various gambling activities would be a simple way to add funds to the state treasury without hitting the general taxpayer. But lawmakers have said no to parimutuel wagering on greyhound races, no to a state lottery, and no — until this year — to legalization of bingo (legally a lottery). Off-track betting, jai-alai and casino gambling also have been proposed but never reached the precipice of passage in the Legislature. (But, under a constitutional amendment that cleared the Legislature in August [ACA 3 by Leroy Greene], Californians will vote next June on whether to allow bingo to be played legally for charitable purposes.

Expansion of legalized gambling has been rejected for two basic reasons — morality and hardship. The first argues that the state should not encourage "sinful" activity, while the latter maintains that gambling hits hardest at those who can afford it least. But there is also a more practical reason: Those in the legalized gambling industry — notably horse-racing interests and Nevada casinos — pull out all the stops to hold down competition for the wagering dollar.

Fear of crime

The horse-racing industry has a near-monopoly on legalized gambling in California. The only exceptions are card-rooms operated on a local-option basis. One reason why the horse-racing lobbyists have succeeded in playing the field without competition is that California does not have the pervasive gambling environment that makes wagering almost a way of life in some eastern states. And Nevada is accessible to anyone in California who wishes to place almost any kind of a wager. There are, of course, many bookmakers operating illegally in California, and a prime argument in favor of off-track betting is that it will bring their profits into the state treasury and relieve the tax burden on the rest of the citizenry. California is considered a relatively clean state, and officials claim that organized crime has not gained a stronghold on the state's gambling activities, legal or illegal. But every time a gambling bill is brought before the Legislature, opponents claim that it may well strengthen organized crime's operations in California.



No one disputes the contention that legalizing more gambling activities would provide a painless way of providing revenues for state government. The state collected $85 million from horse-racing last year. But that amount is insignificant compared to the $11 billion state budget. Opponents have argued that the take from gambling is not sufficient to merit making the plunge; revenues received by other states instituting lotteries and off-track betting have not reached expectations, they note. On the other hand, it has been estimated that 85 percent of the Nevada gamblers are Californians. Some of the money spent there could undoubtedly be kept in California through legalizing other forms of gambling.

For many years, it has been contended that Nevada gambling interests have spent small fortunes lobbying the California Legislature to halt passage of gaming bills. Yet, those who have attempted to document these activities have been unable to prove that contention.

Every year, it seems, some form of legalized gambling comes to the fore in the Legislature. This was the year of the dog-racing effort, and the bill to legalize that activity, by Assemblyman Leon Ralph, died in April without even reaching the floor of the Assembly. Ralph has long been a proponent of various forms of legalized gambling, but recent governors and the current leaders of the Senate and Assembly, Senator James R. Mills and Assemblyman Leo McCarthy, have not been. Whether Governor Edmund G. Brown Jr. next year sees the lure of state income from gambling as a way around the general tax increase he wants to avoid remains to be seen. And, if so, which form of gambling would he support? Here is an analysis of the various forms of gambling that have been, from time to time, under consideration:

The author, a student at the Davis campus of the University of California, prepared this article while a Journal *intern.*

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Dog-racing. This year Assemblyman Ralph introduced AB 455, which would have legalized greyhound racing with pari-mutuel wagering. The bill, co-sponsored by the Golden State Greyhound Association, was narrowly defeated (5-4) in the Assembly's Governmental Organization Committee. Organized opposition from the horse-racing industry, humane societies, law-enforcement agencies and Protestant church groups contributed to its defeat.

Legislative Analyst A. Alan Post studied dog-racing in Arizona and Colorado and found that horse-racing revenues were not adversely affected by dog-racing. Post estimated that the state would receive about $35 million dollars a year from its percentage of the pari-mutuel handle in dog-racing.

While horse-racing enjoys a virtual monopoly in California gambling, it is hardly a private industry in the classic, free-enterprise sense. The state has almost entirely regulated horse-racing, from the percentage of the handle the state can keep to the number of racing days at each track. The state also receives income from employment, property taxes, sales taxes and admissions. In return for the assured income, the state "protects" the horse-racing industry from competitors, which puts the state in the position of being a silent partner with the industry, a relationship that has worked relatively well since 1934. [See "Horse-racing in the golden state, *CJ*, October 1974.

Some apprehension about legalizing betting on dog-races reflects ignorance of the sport itself, especially of the training procedures. Some humane organizations wrongfully contend that live lures such as rabbits are used to train greyhounds, although this has not been the case for years in California. As for the fear that wagering on dog races will foster organized crime in California, the state Department of Justice found no evidence linking the Golden State Greyhound Association to organized crime. Moreover, Ralph's legislation would have created a state commission to regulate the activity.

Lottery. Last year, a lottery bill, also by Assemblyman Ralph, was passed by the Assembly but defeated in the Senate. Analyst Post had estimated at that time that a lottery would supply the state with 177 million dollars, based on a study of New Jersey's lottery.

Lotteries have generally been an undependable and insignificant source of state revenue, according to a survey by the *Los Angeles Times*. A successful lottery must be promoted, other states have found. Consequently, lotteries cost more to administer than conventional forms of taxation. Administration costs and prizes take 55 percent of lottery proceeds in New York and New Hampshire, for example, while only 1 percent of sales or income tax revenue goes for collection and administration of the levy.

Some opponents of a state-operated lottery consider the lottery to be, in effect, a regressive tax, though a study by the National Science Foundation found that lottery participants tended to approximate

similar percentages of all income groups. However, the price of a lottery ticket does constitute a higher proportion of a low-income person's wealth.

The Department of Justice contends that "California would be fairly safe [that is, free from organized crime] except that implementation of the lottery would create an environment that is conducive to other illegal activities." The National Science Foundation concluded: "Lotteries have not significantly reduced the total volume of illegal gambling and do not appear to have reduced the corruption of public officials, nor freed law enforcement from anti-gambling law enforcement." More difficult to answer is the question of whether the state should, in effect, compete with the private sector for its citizens' disposable income.

A lottery is, perhaps, the simplest gambling activity for the state of California to develop as a means of raising revenues. It can be established quickly, at low start-up cost, and the risk is low. For these reasons, legislation to start a state lottery will likely be introduced again next year, particularly if the money squeeze continues as severely in 1976.

Bingo. This was the fourth year that Assemblyman Leroy Greene introduced a bill to legalize bingo for charitable purposes, thus sanctioning a social and fund-raising activity that has been current among senior-citizen groups and Catholic parishes for years. Some legislators were critical of the limited nature of Greene's bill since allowing bingo for non-profit organizations only would hinder senior-citizen groups.

The California Police Officers Association and Protestant church groups have long opposed legalization of bingo. The Protestant organizations oppose all forms of gambling on the ground that it creates a "bad" social environment; the Police Officers Association fears that organized crime would gain control of bingo games. The voters will decide in June whether to amend the Constitution to permit limited playing of bingo legally.

Jai-Alai. The legalization of jai-alai was considered by the Legislature briefly two years ago. If jai-alai were legalized in California, as it is in Mexico, it would set an interesting precedent. So far, no sports betting involving human beings only is legal, and allowing one such sport to be legalized might lead to legal betting in other sports. The state would not derive much revenue from jai-alai under the proposal defeated two years ago, which would have allowed international teams to compete in California for money.

Off-Track Betting. Legalized off-track betting could potentially be a real money-maker for the state. The horse-racing industry is concerned about how it might work, however. In New York, where off-track betting was legalized through hastily enacted legislation, the administrative costs were so high that the net revenue to the state was negligible. Moreover, the horse-racing industry had to readjust its facilities to the lesser use of the tracks. It may be, of course, that California could benefit from New York's experience.

Casino gambling. There has never been a serious move in the Legislature to legalize casino gambling, though there has been talk of legalizing it on the California side of Lake Tahoe to keep Californians' gambling dollars in the state. (This is the subject of a constitutional amendment introduced by the late Assemblyman Edwin Z'berg, who would have made the practice contingent upon the State of Nevada's issuing another gambling license on its side of the Tahoe Basin. Z'berg's reasoning was that Nevada would choose not to, and the result would be to stabilize the lake's environment.)

Outside the Legislature, a private group — California Funding, Inc. — is seeking to legalize casino gambling and off-track betting through the initiative process. The two-part initiative, which requires 490,000 signatures to be placed on the ballot next year, includes off-track betting in designated restaurants throughout the state, and casino gambling in Adelanto and California City. The proponents claim that their measure would bring $500 million dollars annually into the state's general fund.

Always a risk

Although studies on gambling in California are inconclusive, legalized gambling would yield some additional revenue to the state. Broad legalization of gambling would likely lead to a saturation of the gambling market, with the various legalized activities competing with one another. Ideally, legalization should be restricted to those gambling activities that gain desired results such as raising money or providing entertainment, while reducing harmful side-effects. Even legalization of every conceivable gambling activity would not eliminate all illegal gambling, however, because legalized gambling in the United States doesn't reward the winners with tax-free earnings. No one has yet found a way to end that.

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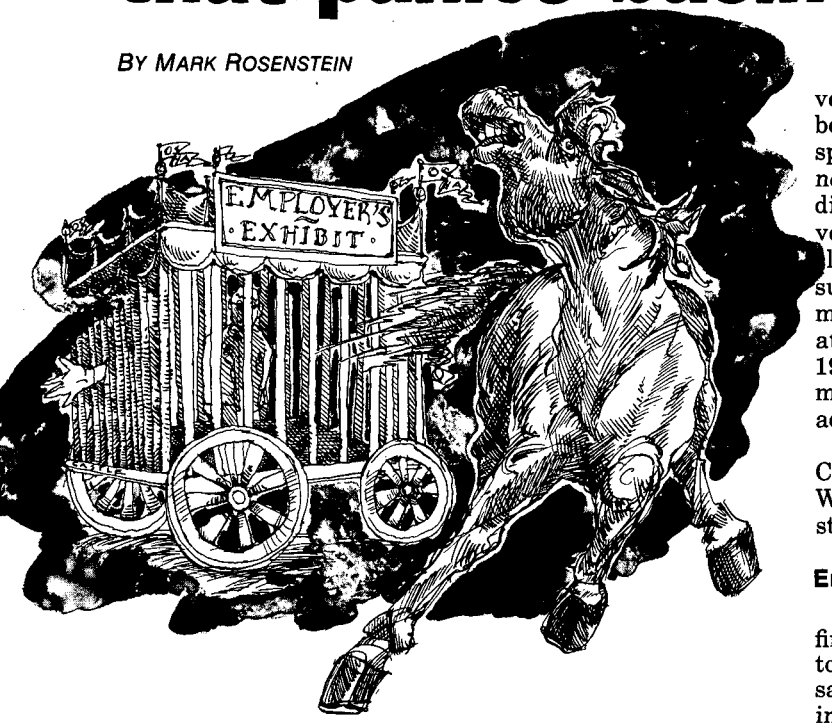
A four-letter word that panics businessmen

BY MARK ROSENSTEIN



Employers in California are worried. They are worried about plants being shut down by court order and about possible "wall-to-wall" inspections that would uncover minor safety code violations that cost a lot to eliminate. Most of all they are worried about the possibility of going to jail. All of these possibilities exist under CAL-OSHA, the term used to describe the network of laws, inspectors, investigations, and officials who administer a program of occupational safety in California.

The California Occupational Safety and Health Act, or CAL-OSHA, is derived from the federal act of the same name, but it is unique in being the only system of occupational safety actually run by a state (the others having all been virtually preempted by the federal government). The California response to problems of industrial safety came from two sources: The Williams-Steiger Act of 1970, which set up the federal OSHA standards and included a provision to allow states to run their own programs if their standards were at least as stringent as those in the federal law; and the Sylmar Tunnel disaster in 1971, in which 17 workmen were killed.

Sylmar disaster

The Sylmar disaster caused a furor. Investigations revealed that a small explosion had taken place the day before, injuring six people. Although the state safety inspector had found a high concentration of gas in the tunnel, he had not shut the project down while the gas was dissipated. An Assembly select committee formed to investigate the state's program of industrial safety concluded that the Division of Industrial Safety, which was supposed to inspect job sites, was lax in enforcement, management oriented, and slow to halt dangerous operations — in short, "a toothless tiger". Finally, by October 1973, the Legislature came up with a bill (AB 150) to make California's law comply with the federal safety act.

But the state act did more than that. It enabled California to get half of its enforcement cost paid by Washington; it also added criminal penalties. This extra step is what has made the manufacturers nervous.

Employee initiative

The OSHA program included a new concept, that of "the first-instance sanction". Under it, an employer is subject to a fine simply if the premises are not up to the specified safety standard. The California act took the first-instance sanction even further, making an employer liable for civil action and a jail sentence if "willful and repeated" violations of the code took place. It also required the Division of Industrial Safety to respond within three days to an employee complaint of a safety violation.

These new attitudes and statutes created what the employers of the state saw as a huge potential problem for them. Any employee could call the division and get an inspector out to conduct a "wall-to-wall" inspection under which the employer would be liable for fines, the cost of correction, and possibly a jail sentence for any violations found. What had happened was a shift of responsibility for plant safety away from the inspector and to the employer.

Federal criticism

The new state law, besides adding criminal penalties, also set up the apparatus by which these new codes would be enforced. In addition to the division, which is part of the state Department of Industrial Relations, two new boards were created, Appeals and Standards. The Standards Board, composed of seven members appointed by the governor, is supposed to proclaim the standards employees have to follow, while the Appeals Board, with three gubernatorial appointees, rules on any appeal of a division decision. (For example, if a construction company is cited for having unsafe scaffolding it can take its

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case to the Appeals Board and at least postpone any correction until a ruling is made.)

The new program got started slowly. The "compliance safety engineers", or inspectors, had to be retrained to spot health hazards as well as safety hazards. In addition, morale was low, according to a federal Department of Labor evaluation of the period from January to June 1974. Apparently most of the initial deficiencies were corrected, because the second six-month report had some different criticisms, only one of which — that the division was not protecting the anonymity of employees making complaints against their employers — had appeared in the earlier study. Fred Ottoboni, deputy director of the Department of Industrial Relations until his appointment by Governor Brown July 3rd as special assistant for CAL-OSHA viewed the federal criticism as helpful "to guide us on our faults". One of these, according to the feds, is an Appeals Board of Reagan holdovers with a remarkable record of unanimity thought to be skewed toward management (though the three members are supposed to be chosen one each from management, labor and the general public). These holdovers were replaced by Governor Brown in August.

With more than 18 months behind it, where is CAL-OSHA today? A survey by *Los Angeles Times* reporter Larry Stammer, published July 17th, concluded that "there is no solid evidence that it is accomplishing its purpose any better than pre-1974 programs." Ottoboni concurred. "So far," he said, "CAL-OSHA has had no material impact on health and safety in California." Stammer reported that "in fact, the total number of job-related deaths increased to 727 in 1974, compared to 711 in 1973 and 650 in 1972." In 1974, fines totaling $1.8 million were assessed by the Division of Industrial Safety (which got a new chief in July, when Brown named labor official David Chambers, 46). As hefty as that amount may appear, it seems not to have encouraged employers to reduce work hazards before accidents occur. Said CAL-OSHA representative Gene Cresci to the *Times'* Stammer: "OSHA is supposed to encourage them to look over their procedures and figure out ways of encouraging preventative measures. Businesses are not doing it."

Old and new

The Brown administration is on record as seeking to reduce the number of deaths and injuries, according to the recently appointed head of the Department of Industrial Relations, Donald Vial. He is committed to making his inspectors work in a manner that will surely bring complaints from employers, though the change appears to be one mostly of attitude.

The change — adoption of an ideology of safety — involves the manner in which the causes of accidents are perceived, and on this question management and enforcement line up as opposites. The former ideology was expressed by Al Libra of the California Manufacturers Association, who considers education to be the key to increased safety. "People get hurt because they break a rule or take a short cut," Libra said. This view accepts the inevitability of accidents because, as a San Francisco safety executive said, "There are certain hazards inherent in producing anything." Ottoboni expressed the new state attitude: "We're not here to harass management, but to reduce accidents. But we're not going to trade off dead men for profits."

End of an era

To bring about a reduction, the Division of Industrial Safety intends to change its planning. Under the law, inspectors must examine every site of a death, serious injury or complaint by an employee, but it can also make routine, preventive inspections. These inspections are to be concentrated in areas with the highest accident rates. Another major area of concentration will be that of occupational health. The state Department of Health has been slow in its research on health hazards and slow in inspecting job sites. Ottoboni, who holds a doctorate in industrial hygiene from UC Berkeley, said that much work has yet to be done in this field. Part of the problem is that fatalities in occupational health only show up years after the incident occurred. As a result, there are no disasters like that at Sylmar to spur action. To improve the department's capability of detecting health hazards, 200 inspectors are to be trained to recognize potential hazards that then can be checked out by health specialists.

While the state is thus stressing tougher enforcement and concentration of resources on the most hazardous industries, employers want increased education of workers and cooperation between management and inspectors. (The system is based too much on adversary proceedings, one safety executive said.)

The man in the middle of this question of confrontation versus cooperation and enforcement versus education is the head of the Division of Industrial Safety, David L. Chambers, whose industrial experience is on the labor side of the aerospace field. (He is a past president of District Lodge 50 of the International Association of Machinists and Aerospace Workers.) Chambers succeeds Richard Wilkins, a Reagan holdover who drew praise from management particularly for the stress he placed on safety education. Under the new regime, his departure was thus not unforeseen.

With key personnel now in place, the state's new stress on enforcement first can be expected to be felt in industry. Wilkins' departure may signal an end to an era of good feeling between the state's inspectors and employers. The question remains, however, whether the added pressure that this attitude is sure to generate will bring a reduction of on-the-job accidents — accidents that, despite OSHA, kill an average of 700 California workers a year.

Selected government reports

Doctors' Malpractice Insurance: An Interim Report; a report by the Joint Legislative Audit Committee on ACR 83. Sept. 1975. Highlights: Rate-setting over the past 15 years, should the state regulate the investment of doctors' funds, distribution of dividends by insurance carriers, proposed increases in patient expense. 45 pp. and appendix. Free from Auditor General, 925 L St., Sacramento 95814.

Financing Bay Area Transit: Policy Study and Recommendations; by Bay Area Council, 348 World Trade Center, San Francisco 94111. ($20) Summary of both current and projected financing. 20 pp.

Automated Guideway Transit: Roles for the State of California; Public Policy Research Associates, Inc., 2118 Milvia St., Rm. 108, Berkeley 94704. 1975. Three modes of minimal-cost rapid transit. 54 pp.

Emerging Issues in Local Government Law; by the Urban Observatory of San Diego, 202 C St., San Diego 92101. ($4) Studies of assorted urban problems responding to a report of the American Bar Association. 115 pp.

Land and the Environment: Planning in California Today; sponsored by The Planning and Conservation Foundation, Suite 310, 1225 Eighth St., Sacramento 95814. ($11.95) A critical analysis and reference book on California planning law and institutions, state, regional and local.

Privacy; by the Council of State Governments, Iron Works Pike, Lexington, Ky. 40511. ($3) July 1975. Major concerns about collection and dissemination of personal information, and what to do to remedy them. 64 pp.

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ROLL CALL

End of a productive session

The 1975 meeting of the Legislature — one of the most productive and efficiently run in many a year — came to a close in mid-September. Numerous important bills were sent to the desk of Governor Brown, and many of these were measures that had been blocked during the eight-year reign of Republican Ronald Reagan. With the Democrats in firm control of both houses and a Democrat again in the corner office, the floodgates opened to release the backlog of liberal legislation. The improved efficiency of the Legislature can be credited to the reform movement led by Assembly Speaker Leo T. McCarthy, with the help of Senate President pro Tempore James Mills. McCarthy made it clear from the start that he would be a no-nonsense speaker and that the rules covering the flow of bills would be followed.

In the two weeks before recess until January, lawmakers sent Brown hundreds of bills, but the final flurry was not nearly as disorganized as in the past. Aside from the influences of Brown, McCarthy and Mills, the major element in the legislative mix this year was the new political-reform act, which halted the flow of favors from lobbyists to legislators.

Collective bargaining

Lawmakers failed to enact a comprehensive collective-bargaining bill for public employees, but Senator Albert Rodda did get through a partial package applying only to public school employees, and Brown signed it, reluctantly, into law. A sampling of other actions:

The Governor vetoed a $34 million liquor-tax increase to fund alcoholism programs to keep his pledge of no general tax increases this year.

Organized labor obtained its long-sought bill to ban use of professional strike-breakers.

The so-called Simpson Act banning picketing in the Capitol was repealed.

And, despite the liberal tinge to the Legislature, a Republican-sponsored bill requiring imprisonment for those convicted of certain crimes while carrying firearms went to the Governor's desk (and was signed).

A summary of the Governor's vetoes and major bills passed by the Legislature this year will be included in next month's Journal.

VOTING RECORDS

Listed here are the votes of legislators on recent major roll calls through September 15th. Votes selected involve issues of major importance, issues on which there was a major division of opinion, or both.

Y — Yes
N — No
• — Absent or not voting

A ⅔ vote is required for urgency measures, constitutional amendments, and appropriations.

Assembly: 41 votes required for passage of bills needing a simple majority.
⅔ = 54 votes.

Senate: 21 votes required for passage of bills needing a simple majority.
⅔ = 27 votes.

Senate

BUSINESS AND CONSUMER AFFAIRS

AB 234 (Rosenthal) — Abolishes suits for deficiency balances once a car has been repossessed. Failed 11-26.

AB 601 (Lewis) — Enacts Investigative Consumer Reporting Agencies Act regulating the release of personal and credit information. Passed 22-7.

CRIMINAL JUSTICE

AB 1333 (Chel) — Makes first-offense carrying of a concealed and unlicensed firearm punishable as either a misdemeanor or a felony. Passed 22-14.

AB 1441 (Murphy) — Extends the waiting period for taking possession of firearms from five days after purchase to 15. Passed 21-18.

AB 1506 (Sieroty) — Restores certain civil rights for prisoners. Passed 21-18.

AB 1507 (Sieroty) — Requires the Adult Authority to set a parole date for each prisoner within a specified time. Passed 22-7.

AB 1967 (Sieroty) — Repeals the so-called Simpson Act prohibiting picketing in the state Capitol. Passed 21-15.

EDUCATION

SB 160 (Rodda) — Establishes collective bargaining for public-school employees. Senate adopted Assembly amendments 25-7.

SB 220 (Rodda) — Override of Governor's veto of $27 million from $115 million school-aid bill. Override voted, 28-7.

AB 32 (Greene) — Authorizes $200 million in state school bonds, subject to voter approval. Passed 27-11.

AB 207 (Vasconcellos) — Gives students the right of free expression in campus publications. Defeated 11-20.

AB 1267 (Egeland) — Prohibits corporal punishment of students without their parents' written permission. Passed 21-16.

• CORRECTION •

For the past few months, the voting records of Senators Arlen Gregorio and Bill Greene have been reversed in *Journal* "roll call" tables. Both are Democrats and their voting records are similar; nevertheless, there have been some errors as a result of the transposition of their names.

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SENATE (25 D, 15R)

	AB 234	AB 601	AB 1333	AB 1441	AB 1506	AB 1507	AB 1967	SB 160	SB 220	AB 32	AB 207	AB 1267	AB 91	AB 255	AB 469	AB 1xx	AB 193	AB 1206	AB 625	AB 1455	AB 2102	ACA 3
Alquist (D)	N	Y	N	Y	Y	Y	Y	*	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y
Ayala (D)	Y	Y	Y	Y	N	Y	N	Y	Y	N	Y	N	Y	Y	N	Y	N	Y	Y	N	Y	Y
Behr (R)	N	Y	Y	Y	Y	*	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	*	Y	N
Beilenson (D)	Y	Y	N	Y	*	Y	Y	Y	N	*	Y	Y	Y	N	*	Y	N	Y	Y	Y	N	Y
Berryhill (R)	N	*	Y	N	N	*	N	N	*	Y	N	N	N	N	Y	*	N	N	Y	*	N	N
Carpenter (R)	N	*	Y	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	*	N	N
Collier (D)	N	Y	Y	N	N	Y	Y	Y	Y	*	*	Y	*	Y	*	Y	N	Y	N	Y	N	Y
Cusanovich (R)	N	Y	Y	N	*	*	N	Y	Y	N	Y	N	N	N	N	*	Y	N	N	N	*	Y
Deukmejian (R)	N	N	Y	N	N	Y	N	*	*	N	N	Y	N	N	N	N	N	N	N	N	Y	Y
Dills (D)	Y	Y	Y	N	N	Y	Y	Y	Y	N	Y	N	Y	*	Y	Y	N	Y	Y	N	*	Y
Dunlap (D)	Y	*	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Garcia (D)	N	Y	Y	Y	Y	Y	Y	Y	Y	N	*	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y
Greene (D)	Y	Y	N	Y	Y	Y	Y	Y	Y	N	*	Y	Y	Y	Y	Y	N	Y	Y	Y	*	*
Gregorio (D)	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	N	Y	Y	Y	Y	Y
Grunsky (R)	N	N	*	Y	N	*	Y	*	N	*	N	N	*	N	N	*	N	N	N	*	N	Y
Holden (D)	Y	*	N	Y	Y	Y	*	Y	*	*	Y	Y	*	N	Y	Y	N	N	N	N	Y	Y
Holmdahl (D)	*	*	N	Y	N	N	N	N	*	Y	N	N	Y	N	*	N	N	N	N	N	Y	Y
Kennick (D)	N	Y	*	N	Y	Y	Y	*	Y	N	*	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y
Marks (R)	N	Y	*	Y	Y	*	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	N	Y
Mills (D)	*	*	Y	N	Y	Y	*	N	Y	*	N	Y	*	N	Y	Y	N	Y	Y	Y	Y	Y
Moscone (D)	Y	Y	N	Y	Y	Y	Y	Y	Y	*	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y
Nejedly (R)	N	Y	N	Y	N	Y	N	Y	Y	N	Y	Y	Y	N	Y	Y	N	Y	Y	N	Y	N
Petris (D)	N	Y	Y	Y	Y	*	Y	Y	Y	Y	Y	N	Y	*	Y	Y	Y	Y	Y	Y	Y	Y
Presley (D)	N	Y	N	Y	N	Y	N	Y	Y	*	Y	Y	*	Y	Y	Y	N	Y	Y	Y	Y	Y
Rains (D)	N	*	N	Y	Y	*	Y	*	N	Y	*	N	Y	Y	Y	Y	N	Y	Y	Y	Y	Y
Richardson (R)	N	N	Y	N	N	*	N	N	N	N	N	N	N	N	Y	N	N	N	N	N	Y	Y
Robbins (D)	*	Y	*	N	Y	Y	Y	*	*	Y	*	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y
Roberti (D)	Y	Y	N	Y	Y	*	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y
Rodda (D)	Y	Y	N	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y
Russell (R)	N	*	Y	N	N	N	N	Y	Y	N	N	N	N	Y	N	N	N	N	Y	N	*	Y
Schrade (R)	N	N	Y	N	N	Y	*	Y	Y	*	N	N	Y	N	Y	Y	N	Y	Y	Y	Y	Y
Smith (D)	N	*	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y
Song (D)	N	Y	Y	Y	Y	Y	Y	*	Y	Y	*	Y	Y	Y	Y	Y	N	Y	Y	Y	*	*
Stevens (R)	N	Y	Y	N	N	*	N	N	Y	*	Y	Y	*	N	Y	Y	N	N	Y	N	Y	Y
Stiern (D)	N	Y	Y	Y	N	N	N	Y	Y	N	Y	N	Y	Y	Y	Y	N	Y	Y	Y	Y	Y
Stull (R)	N	N	Y	N	N	N	N	Y	Y	N	N	Y	N	N	Y	N	N	N	Y	N	Y	Y
Way (R)	N	N	Y	Y	N	N	N	*	N	N	N	N	N	N	Y	N	N	N	Y	N	Y	Y
Wedworth (D)	N	N	Y	N	Y	*	Y	Y	N	N	N	*	Y	N	N	Y	Y	Y	Y	Y	Y	Y
Whetmore (R)	N	*	Y	Y	N	N	*	Y	N	*	Y	N	N	N	Y	N	N	N	Y	N	Y	Y
Zenovich (D)	Y	*	N	Y	Y	*	N	Y	Y	Y	N	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y

EMPLOYMENT

AB 91 (McAlister) — Increases the maximum weekly unemployment benefit from $90 to $104. Passed 27-7.

AB 255 (Dixon) — Prohibits an employer from asking a job applicant to disclose arrests that did not result in convictions. Passed 22-10.

AB 469 (Ralph) — Extends workers'-compensation coverage to household workers. Passed 21-16.

HEALTH AND WELFARE

AB 1xx (Keene) — Enacts a comprehensive medical malpractice act. Passed 34-4.

AB 193 (Keene) — Permits pharmacists to substitute non-brand drugs for prescription brand-name drugs under specified conditions. Passed 30-7.

MISCELLANEOUS

AB 1206 (Boatwright) — Repeals tax deductions for preferential income. Passed 24-11.

AB 625 (Knox) — Creates a regional planning agency for the San Francisco Bay Area. Two-house compromise rejected, 13-21.

AB 1455 (Vasconcellos) — Requires state boards and commissions to reflect the sexual, racial and ethnic proportions of the California population. Passed 21-9.

AB 2102 (Dixon) — Allows payment to deputy registrars of voters if approved by local government. Passed 21-17.

ACA 3 (Greene) — Permits bingo games for charity under local option. Subject to voter approval. Adopted 37-11.

Assembly

BUSINESS AND AGRICULTURE

SB 261 (Roberti) — Requires grocery stores using computerized checkout systems to stamp prices on all items. Passed 64-6.

SB 492 (Berryhill) — Eliminates authority of director of agriculture to regulate wholesale prices of milk. Passed 45-25.

SB 853 (Moscone) — Expands powers of director of consumer affairs. Passed 43-30.

SCA 19 (Greene) — Increases maximum interest rate under California usury law to 7 percent above the re-discount rate established by the Federal Reserve Bank (or 10 percent, whichever is higher). Adopted 62-6.

CRIMINAL JUSTICE

SB 278 (Deukmejian) — Requires imprisonment of a person who uses firearm in the commission of a crime. Passed 68-9.

SB 1018 (Song) — Creates office of state Public Defender. Passed 43-28.

EDUCATION

SB 220 (Rodda) — Override vote on Governor's veto of $27 million from $115-million school-aid bill. Override failed, 31-34 (54 votes required).

EMPLOYMENT

SB 160 (Rodda) — Provides for a collective bargaining system for school employees. Passed 63-13.

SB 719 (Roberti) — Prohibits use of strike-breakers to replace workers involved in strike or lockout. Passed 48-14.

Journal telecasts resume in state

The television edition of *California Journal* is again on the air, after a summer recess, carried by the following public television stations:

Sacramento. KVIE-Channel 6 (originating station) — 10 p.m. Tuesday, repeated at 7 p.m. Friday.

Los Angeles. KCET-Channel 28. 4 p.m. Saturday.

San Francisco. KQED-Channel 9. 6 p.m. Saturday.

San Diego. KPBS-Channel 15. 7 p.m. Friday, repeated at 5:30 p.m. Saturday.

San Jose. KTEH-Channel 54. 5:30 p.m. Saturday.

San Bernardino. KVCR-Channel 24. 7 p.m. Friday, repeated at 1:30 p.m. Monday.

Huntington Beach. KOCE-Channel 50 — 8:30 p.m. Monday.

Redding. KIXE-Channel 9. 10 p.m. Wednesday.

San Mateo. KCSM-Channel 14 — 9 p.m. Friday.

These times are subject to change and should be checked in the television listings of your local newspaper.

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SB 743 (Moscone) — Restricts power of courts to issue restraining orders or injunctions in labor disputes. Passed 45-25.

AB 633 (Foran) — Prohibits discrimination in employment based on sexual orientation. Defeated 22-48.

HEALTH AND WELFARE

SB 46 (Dills) — Ends the requirement that relatives of elderly persons on welfare contribute to their support. Passed 61-9.

SB 395 (Beilenson) — Permits minors to obtain contraceptives without their parents' consent. Passed 41-35.

AB 1477 (Goggin) — Permits eye doctors to advertise their fees. Passed 46-20.

HOUSING

SB 844 (Petris) — Prohibits discrimination in housing based on sex and marital status. Passed 42-32.

SB 1128 (Petris) — Authorizes local housing authorities to provide privately owned leased housing to persons of low income. Passed 41-26.

TAXATION

SCA 1 (Dunlap) — Changes from two-thirds to a simple majority the margin needed to vote a change in levies on banks, corporations and insurance companies. Requires voter approval. Adopted 55-20.

AB 416 (Warren) — Imposes a half-cent increase on telephone bills in 1977 to finance an emergency telephone system. Passed 41-24.

TRANSPORTATION

SB 244 (Petris) — Appropriates $9 million for statewide bike-trail system along highways. Passed 54-20.

MISCELLANEOUS

SB 231 (Dunlap) — Permits local advisory elections. Failed 19-45.

SB 1 (Moscone) — Tightens California's open-meeting laws. Passed 61-15.

SB 610 (Senate Rules Committee) — Would increase legislators' salaries from $21,120 annually to $23,232, effective December 5, 1976. Passed 54-25.

ASSEMBLY (54 D, 25 R)	SB 261	SB 492	SB 853	SCA 19	SB 278	SB 1018	SB 220	SB 160	SB 719	SB 743	AB 633	SB 46	SB 395	AB 1477	SB 844	SB 1128	SCA 1	AB 416	SB 244	SB 231	SB 1	SB 610
Alatorre (D)	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Antonovich (R)	Y	Y	N	Y	N	N	N	N	N	N	N	N	N	Y	N	N	N	Y	N	N	N	N
Arnett (R)	Y	Y	N	Y	N	N	N	N	N	N	N	Y	Y	N	N	N	N	Y	N	Y	N	Y
Badham (R)	*	Y	*	*	Y	*	Y	*	*	N	*	*	*	N	N	N	*	Y	N	*	Y	N
Bane (D)	Y	Y	N	Y	Y	Y	N	Y	Y	Y	N	Y	Y	N	Y	Y	Y	Y	Y	Y	N	Y
Bannai (R)	Y	Y	N	Y	Y	N	Y	Y	*	*	N	Y	*	Y	N	N	*	N	N	N	N	N
Berman (D)	Y	N	Y	*	N	Y	N	Y	Y	Y	Y	Y	*	Y	Y	Y	Y	Y	Y	Y	Y	Y
Beverly (R)	Y	Y	N	Y	N	N	Y	Y	*	N	*	Y	Y	*	N	N	Y	N	Y	N	N	Y
Boatwright (D)	Y	Y	Y	Y	Y	N	Y	*	Y	N	Y	N	Y	N	N	Y	Y	N	N	Y	N	Y
Briggs (R)	Y	Y	N	Y	Y	N	N	Y	N	N	N	N	N	N	Y	Y	N	N	Y	Y	N	Y
Brown (D)	Y	N	*	Y	Y	Y	Y	*	Y	Y	Y	Y	Y	Y	Y	Y	Y	*	Y	Y	Y	Y
Burke (R)	*	Y	N	N	N	N	N	*	N	*	N	N	N	N	N	N	N	N	N	Y	N	Y
Calvo (D)	Y	N	*	Y	Y	Y	Y	*	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Campbell (R)	Y	Y	N	Y	Y	*	Y	N	N	N	N	N	N	N	Y	Y	N	Y	N	Y	N	Y
Carpenter (D)	Y	Y	Y	Y	Y	N	N	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y
Chacon (D)	Y	*	Y	Y	Y	Y	N	Y	*	Y	N	Y	Y	Y	N	N	Y	Y	N	N	N	Y
Chappie (R)	*	Y	N	Y	N	*	N	Y	*	*	N	N	N	N	N	N	N	N	N	N	N	N
Chel (D)	Y	Y	Y	Y	Y	N	Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Chimbole (D)	*	Y	N	*	Y	*	N	N	*	N	N	*	N	N	Y	Y	*	Y	N	Y	N	Y
Cline (R)	N	Y	N	N	Y	N	N	N	N	N	N	N	Y	N	N	N	N	Y	N	N	N	Y
Collier (R)	N	Y	N	N	Y	N	N	N	N	N	N	N	N	Y	N	N	N	N	N	N	N	Y
Craven (R)	*	Y	*	Y	Y	N	N	N	N	N	N	N	N	N	N	N	N	Y	N	Y	N	Y
Cullen (D)	N	Y	Y	Y	Y	*	N	Y	*	Y	Y	Y	*	Y	Y	*	Y	Y	Y	Y	Y	Y
Davis (D)	*	Y	N	Y	Y	*	Y	N	N	N	N	N	N	N	N	N	Y	N	Y	N	N	Y
Deddeh (D)	Y	Y	N	Y	Y	Y	N	Y	Y	Y	N	Y	Y	N	Y	Y	Y	Y	N	Y	N	Y
Dixon (D)	Y	N	*	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Duffy (R)	Y	Y	N	Y	Y	N	N	N	N	N	N	Y	N	N	N	N	N	Y	N	N	N	Y
Egeland (D)	Y	Y	Y	Y	Y	*	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	*	Y	Y	Y	Y
Fenton (D)	Y	N	Y	Y	Y	Y	N	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Foran (D)	Y	*	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Garamendi (D)	Y	Y	Y	Y	Y	N	N	Y	Y	N	N	*	Y	Y	Y	Y	*	Y	Y	Y	Y	Y
Goggin (D)	Y	*	Y	Y	Y	Y	N	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y
Greene, L. (D)	Y	Y	Y	Y	Y	N	N	Y	Y	Y	Y	Y	Y	N	Y	Y	N	Y	N	Y	N	N
Gualco (D)	Y	N	Y	Y	Y	Y	N	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Hart (D)	Y	N	Y	Y	Y	N	N	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y
Hayden (R)	Y	Y	*	*	Y	Y	*	Y	N	*	N	Y	N	Y	N	Y	Y	N	Y	Y	N	Y	N
Hughes (D)	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	*	Y	Y	Y	Y	Y	Y	Y	Y	Y
Ingalls (D)	Y	Y	*	Y	Y	Y	*	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Kapiloff (D)	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Keene (D)	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Keysor (D)	Y	Y	Y	Y	Y	Y	N	Y	*	Y	*	Y	Y	Y	Y	Y	Y	Y	Y	Y	*	Y
Knox (D)	Y	N	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	*	Y	Y	Y	Y	Y	Y	Y	Y	Y
Lancaster (R)	N	Y	N	N	Y	N	N	N	*	N	*	*	N	Y	N	*	N	N	N	N	N	N
Lanterman (R)	Y	Y	N	N	Y	N	*	N	N	N	N	N	N	N	N	N	N	Y	N	Y	N	Y
Lewis (R)	N	Y	Y	N	Y	N	N	Y	*	N	N	N	N	N	N	N	N	Y	N	N	N	Y
Lockyer (D)	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
MacDonald (D)	Y	Y	N	N	Y	N	N	Y	Y	*	Y	Y	Y	N	N	Y	Y	*	Y	Y	N	Y
Maddy (R)	Y	Y	N	Y	Y	N	Y	Y	N	N	*	Y	Y	N	N	Y	N	Y	N	N	N	Y
McAlister (D)	Y	Y	*	Y	Y	Y	N	Y	Y	N	Y	N	Y	N	Y	N	Y	N	Y	Y	N	Y
McCarthy (D)	Y	*	*	Y	Y	Y	Y	Y	Y	Y	Y	Y	*	Y	Y	*	Y	Y	Y	Y	Y	Y
McLennan (R)	N	*	N	Y	Y	N	N	*	N	N	N	N	N	N	N	N	N	N	Y	N	N	Y
McVittie (D)	Y	N	Y	N	Y	Y	N	Y	*	N	N	Y	N	N	N	N	Y	N	Y	Y	N	Y
Meade (D)	Y	N	*	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Miller (D)	Y	N	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Mobley (R)	*	Y	N	Y	N	N	N	N	N	N	N	*	*	Y	N	N	N	N	N	N	N	Y
Montoya (D)	Y	N	Y	Y	Y	Y	Y	Y	*	Y	N	Y	Y	N	Y	*	Y	Y	Y	Y	N	Y
Mori (D)	Y	N	Y	Y	Y	Y	Y	Y	*	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Murphy (R)	Y	Y	N	Y	Y	N	Y	Y	*	N	N	Y	Y	N	N	N	N	N	N	N	N	Y
Nestande (R)	Y	Y	N	Y	Y	Y	Y	Y	N	N	N	N	N	N	N	N	N	N	N	N	N	Y
Nimmo (R)	Y	Y	N	Y	Y	N	Y	Y	*	N	N	Y	Y	N	N	N	N	N	N	N	N	Y
Papan (D)	Y	Y	N	Y	Y	*	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Perino (D)	Y	Y	N	Y	Y	N	N	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y
Priolo (R)	Y	N	N	N	N	Y	N	N	N	N	N	Y	N	N	N	N	Y	N	N	Y	N	Y
Ralph (D)	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Robinson (D)	Y	N	N	Y	Y	N	N	Y	*	N	*	Y	N	*	N	*	Y	N	*	N	N	Y
Rosenthal (D)	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Siegler (D)	Y	N	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	*	Y	Y	Y	Y	Y	Y
Sieroty (D)	Y	N	N	Y	Y	*	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Suitt (D)	*	Y	*	*	Y	*	N	Y	*	N	*	*	Y	N	*	N	*	Y	N	*	N	Y
Thomas, V. (D)	*	*	Y	Y	Y	Y	Y	Y	Y	N	N	Y	Y	Y	Y	N	Y	Y	N	Y	N	Y
Thomas, W. (R)	Y	Y	N	Y	Y	N	Y	Y	N	N	N	Y	N	N	N	N	Y	N	Y	N	N	N
Thurman (D)	Y	Y	N	Y	Y	N	Y	*	*	N	Y	N	Y	N	N	Y	Y	N	Y	N	Y	N
Torres (D)	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Tucker (D)	Y	*	Y	Y	Y	N	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	*	N	*	Y	Y
Vasconcellos (D)	Y	N	Y	*	*	Y	*	*	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	*	*	Y	N
Vicencia (D)	Y	*	Y	Y	Y	Y	*	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y
Warren (D)	Y	*	Y	Y	Y	Y	*	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Wilson (D)	Y	N	Y	Y	Y	N	Y	Y	N	N	N	Y	Y	N	N	N	Y	N	N	Y	N	Y
Wornum (D)	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y
Z'berg (D)	*	*	*	*	*	*	N	*	*	*	*	*	*	*	*	Y	*	*	*	*	*	*

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A WASHINGTON PERSPECTIVE...

By WILLIAM M. KETCHUM

The price of centralization

Our federal system of government is in danger and almost no one seems to care. When the Constitution is two hundred years old, in 1987, the framework of shared powers between the states and the federal government may well be in a shambles. Perhaps we'll keep governors and state legislatures around to deal with formalities and ceremonial pleasantries, but all decisions will be made in Washington. Government will be increasingly remote from the people it is supposed to serve.

After having served six years in the California Assembly and three years in Congress, I find myself agreeing more and more with James Madison that "it is only within a certain sphere that the federal power can, in the nature of things, be advantageously administered." If you ever have a problem in need of complication, send it to Washington and let the bureaucracy get hold of it. My experience has been that state governments deal with their citizens' problems faster, fairer, and more efficiently than can ever be done in the national capital. But this, of course, passes for heresy along the Potomac.

Current wisdom has it that state governments are embarrassing anachronisms that cannot do anything right. Legislatures are perceived as institutions peopled by incompetents. Only the federal government, therefore, can deal with the dilemmas of 20th century America, and the states had better get out of the way.

* * *

Constant tension is implicit in federal systems of government. The central authority is always eager to increase its power, while the component states strive to hold onto whatever sovereignty is theirs. The problem is that the federal government has passed from encroachment to boundless avarice, while some states breathe a sigh of relief everytime they slough off some more authority onto Washington. The 10th Amendment to the U.S. Constitution, granting the states all powers not delegated to the United States by the Constitution, is the most universally ignored clause in that document.

Even Madison, the Constitution's greatest defender, once worried aloud that the federal government would employ its military might to strip the states of their powers. That has not been necessary. He could not foresee the power of the purse, which has proved far more dangerous. Where simple preemption of states' prerogatives has been inconvenient, the dollar has been brought into play. Washington now gets its way by alternately dangling vast sums before hard-pressed states and threatening to snatch them away. This trend, because it is more subtle and hidden from public view, is the more dangerous.

The Oklahoma Legislature has compiled a list of preemptive legislation that has been enacted over the last 10 years. These are bills that supersede state law and force it to comply with federal legislation. It is a sign of how little attention is paid to the field that this is the *only* study undertaken. Many of these bills are well known, such as the Civil Rights Act of 1964, the Voting Rights Acts, the Clean Water Act, the Clean Air Act, the Gun Control Act, and the Occupational Safety and Health Act. I am not arguing the merits of these bills, *per se*, nor seeking to address the social ills they were meant to cure. The point is that these bills have taken the states out of the policy-making process. Authority that once rested with the states now resides in Washington. The preemption method is clear cut: Either the state laws are superseded outright as in the Civil Rights Act, or a set of guidelines is laid down that the states must meet; should the states fail to come up with plans suitable to the powers on high in Washington, plans are superimposed from above. Most environmental legislation, like the Clean Air and Clean Water Acts, are based on this model.

The bills mentioned above are of the do-it-or-else variety. Something like the Land-Use Planning Act is, at first sight, less offensive, since it simply offers states piles of money to develop land-use planning. Its sponsors originally thought that the financial enticement was insufficient, and threatened the states with loss of highway and airport construction funds for non-compliance. This clause was dropped when it was recognized as blackmail. What was not so widely publicized is the fact that the plans must be approved in Washington. The land-use bill is a perfect example of the "do-it-my-way-or-no-money" philosophy of legislation. it keeps the states around as administrators and advisors, but their role as participants in policy-making is gone.

* * *

As long as most Congressmen are convinced that they know more than the folks back home, we'll be saddled with preemptive and coercive legislation. And as long as Washington rakes in most of the tax money, it will probably get away with it. But the states must bear some responsibility for this situation, since all too often they come to Uncle Sam as soon as they find themselves in a mess. To their sorrow, many states have learned that power once given is seldom regained.

I'd like to see state governments regain their lost prominence. I'm convinced that people have more faith in the government that is closest to them and most in tune with their wants and needs. The State of California has always been a leader in government, with many reforms first tried out there later passed on to the other states. Such ingenuity may be impossible under preemptive legislation.

The authors of the Constitution knew what they were doing. It's time we recognized that the credit they gave the states was not misplaced, and ceased building up the federal government.

The author is a Republican congressman representing a valley-desert district centered in Kern County.

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Help for the holidays

'Tis the season (already) to start thinking about what to give those far-flung friends and relatives for Christmas this year. May we suggest a gift that is at once informational and educational (and perhaps even entertaining)? That would, of course, be a subscription to *California Journal*. The *Journal* makes an ideal gift for anyone interested in California politics and government.

With each subscription, we will send a card to the recipient informing him or her of your gift. For each gift subscription, just send your check for $15 (or your Master Charge number) to our circulation manager at 1617 10th St., Sacramento 95814. Or, if you prefer, just ask us to bill you.

Another gift suggestion: the first edition of the *California Journal Almanac of State Government and Politics,* packed with information on all aspects of government in California. The price is $3.13, including tax and postage.

Tyranny is always better organized than freedom.
— Charles Péguy

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